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Book No. Part

THE INDIAN LAND PROBLEM AND LEGISLATION

by

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*Chief Research Officer
Taxation Enquiry Commission*

With a foreword

by

SHRI MORARJIBHAI DESAI,

*Chief Minister,
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To
MY FATHER

FOREWORD

Unless it is recognized that land is a social instrument of production, it would be difficult to take appropriate measures to put it to optimum use in order to be able to maintain in reasonable comfort the growing population in India. In the past, among other things, what hampered optimum utilization of land was the existence, except in the ryotwari areas, of a large number of intermediaries between the actual tiller of the soil and the Government; and, even in the ryotwari areas, the fact that quite a large percentage of land is in possession of the absentee landlords. It became, therefore, necessary to undertake legislative measures for the abolition of special tenures of land and to give security of tenure and an adequate return to tenants, who are the actual tillers of the soil.

In the present context of our under developed economy what is most important is not so much who owns land as how land is cultivated: and, if we wish to realise to the fullest extent the productive potential of agricultural land, we shall have to move forward towards the establishment of co-operative farms. It is no use entrusting cultivation of land to individuals who have neither the ability nor the experience to undertake it. In the context of over-all scarcity of resources—in land as well as in equipment—the best results are likely to be achieved through their co-operative use. Farming aided by Co-operative effort will, in a large measure, be able to make good the deficiencies to which an individual cultivator is exposed. We cannot forget, except at our own peril, that a cultivator has not only to grow enough to eke out a living for himself and his

family, but he is under a social obligation to secure the maximum return compatible with the fertility of the soil in order to feed society. This social purpose is more likely to be realised through co-operative rather than individual effort in cultivation.

It may not perhaps be possible to give to all the landless workers sufficient land or to give perennial employment to those engaged even on co-operative farms; but it is our hope that, in course of time, the surplus of man-power depending for their maintenance on land would be absorbed in the new industries. It is by giving employment to all those who are willing and able to work that we can hope to increase our national dividend and thus bring about an improvement in the standard of living of the people.

The question of the optimum utilization of land is a very important one. The land reforms which have been brought about so far are only the first step towards its solution. Though much has been done, much remains to be done. Meanwhile I am glad that Dr. G. D. Patel has brought out an extremely useful book on the scope and significance of land reforms in India. I have no doubt that it will prove to be of immense help to those who are interested in understanding the magnitude of our land problem and the efforts which are being made to solve them.

Secretariat, Bombay, }
12th February, 1954 }

MORARJI DESAI

PREFACE

This book is a sequel to my book "Agrarian Reforms in Bombay". Its quick sale has encouraged me to undertake a bigger task of writing the present book dealing with the subsequent land reforms of the Bombay State and other Part A, B & C States of India. I have divided the book into two parts: the first part deals with the Bombay Land Reform laws enacted from 1950 to 1953 and the second part is devoted to the all-India land reforms such as Bhoodan Yagna, consolidation of holdings, tenancy, jagir and zamindari abolition. An attempt at survey and analysis of the land reform laws of the States from Jammu and Kashmir to Travancore-Cochin and from Assam to Kutch is a task of great magnitude and importance. In this attempt, I have drawn upon various sources such as Government archives, District Gazetteers, reports of various Land Reforms Committees appointed by different States, the land reform laws of various States, press-reports, magazines and private publications. Much of the matter of the Bombay State particularly relating to the special land and inam tenures of the merged areas is the result of my on-the-spot inquiries as Alienation Enquiry Officer. In addition to the data of the land and cash alienations, I studied the socio-economic conditions of the people concerned. That study has enabled me to assess the socio-economic effects of the laws enacted.

I have treated all the land problems not as a haphazard incident but as a matter of historical growth. Every attempt is made to bring out the historical, administrative, financial and socio-economic aspects of each land legislation. The latest de-

velopments in the land reform laws passed by various State Governments till February 1954 are incorporated in the book. I have spared no pains to make the book authentic and up-to-date as far as possible. At the end of each chapter, I have offered criticism and suggestions which flow from the enactment and enforcement of a particular land reform. In the last chapter "Whither Land Reforms", I have surveyed the entire landscape of the Indian land reforms, posed a few questions and thrown some suggestions to the State Governments, politicians, administrators and students of the land economics for consideration in their local or regional focus. I have pointed out the urgent necessity of making an assessment of the reforms in order to ascertain whether the objectives of the social justice and increase in agricultural production have been achieved by the land reform legislation. What I have done is a little thinking aloud. In doing so, my humble intention is not to cavil at but to point out certain apparent angularities of the reforms in the context of the altered socio-economic conditions. I have tried to consider various view-points of the land reforms and maintain the poise and balance in the treatment of the subject. How far I have succeeded in this endeavour, I leave to the discerning reader to judge.

I am not aware of any book on the Indian land reforms, which deals with the problem in a detached and non-partisan manner for all the Part A, B and C States of India. What few books are published on the subject are meant to propagate the party views and cannot, in the nature of things, be so scientific and unbiassed. In the treatment of the problem, I have kept in view the possible requirements of the State Governments, administrators, lawyers, politicians and the students of Economics. I will consider my labours to have been amply rewarded, if my modest attempt succeeds in meeting their needs, even partially.

My acknowledgments are due to the various authors whose publications I have drawn upon in the preparation of the book. I take this opportunity to express my deep gratitude to Shri D. S. Bakhle, I.C.S., under whose stewardship as Revenue Secretary, I learnt the subtleties of various land tenures. Fur-

ther, I am extremely indebted to Shri J. R. Dhurandhar, Secretary, Legal Department, who took special interest in my effort and, who despite his heavy official duties, found time to scrutinize the typescript. I need not say that his valuable suggestions have enhanced the legal content of the book. While acknowledging the help received from various sources, I should make it clear that I am alone responsible and not Government for the facts and views expressed in the book.

I am much obliged to Shri K. R. Soman, who substantially helped me in reading the proofs of the book.

I am immensely indebted to Shri Morarjibhai Desai, the Chief Minister and the architect of the land reforms of the Bombay State, for an encouraging foreword.*

Bombay,
21st March, 1954 }

G. D. PATEL

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Books by the same author

1. THE AGRARIAN REFORMS IN BOMBAY
2. THE LAND REVENUE SETTLEMENTS UNDER THE BRITISH
૩. આપણી પરિસ્થિતિ
૪. ગુર્જરાને હૈયે

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PART I

CHAPTER I

THE PARAGANA AND KULKARNI WATANS

1. *Introduction.*

The Paragana watans were found all over the State; whereas the Kulkarni watans were found in the State excluding the old Gujarat districts. They were held by hereditary paragana and village officers, whose watans were governed by the Bombay Hereditary Offices Act, 1874. The former were originally concerned in the revenue collection of a unit called a paragana; whereas the latter were responsible for the collection of the revenue of villages. Thus, their watans arose out of the exigencies of the revenue administration of the Moghals and the Peshwas and were continued by the British out of sheer political and administrative expediency. They are considered separately below.

2. *The Paragana watans.*

During the Moghal administration, the territory (Sircars) was divided into paraganas which consisted of several Turufs. A Turuf was composed of an indefinite number of villages. A Paragana was placed under a Deshmukh, who performed the functions in the Paragana, as a Patil did in a village. He was assisted by a Deshpande, who answered to a Kulkarni and a Desh-Chaughula. The Deshpande and Kulkarnis were Brahmins and the Deshmukh and Desh-Chaughulas like patils were Marathas. Above these officers, there were Sir-Deshmukhs and Sir-Deshpandes, who had become obsolete at the time of the introduction of the British rule. The Deshmukhs and Deshpandes were revenue officers of the old Hindu Governments and, being hereditary, were in possession of too much knowledge and influence to be dispossessed by the Mohamedans. The latter appointed district officers, but availed themselves of the experience of those hereditary zamindars and allowed them to settle with the patels. The Muslim rulers often farmed out the entire paraganas to Deshmukhs, who thus acquired so much authority

in some parts of the country that on the decline of the Muslim rule in the Deccan, they became independent for some time. The Maratha Government acquiesced in the arrangement, but removed many watandars owing to heavy embezzlement of public revenue. Though displaced from the original place of vantage, they were utilized as watch-dogs on the activities of the Mamlatdars. No accounts were passed unless they were corroborated by those of the Deshpandes.

At the time of the introduction of the British rule, they were called Desais, Deshmukhs, and Deshpandes in the Deccan, and Amins, Desais and Majmundars in Gujarat. They were considered as servants of the State and held lands and fees originally assigned to them as remuneration. Their main duties then were to produce old records, when required, to settle disputes about land by a reference to those records and to keep a register of all grants and transfers of property. The Deshmukh's profits were considerable and were above 5% not only on the revenue but on the land.

In short, they were the chief instruments for collecting land revenue in the regime of the Peshwas. The early British rulers found them very useful in the unsettled state of the countryside. They had to get down to the task of administration and, naturally, the first question they (the British) had to tackle was how to get rid of the all-powerful district and taluka officers who had firmly entrenched themselves under the Peshwas.

According to the policy laid down by Mount-stuart Elphinstone, the British did not introduce innovations which completely broke with the past administration. Consequently, in the beginning of the British rule, the Paragana watandars were allowed to perform their customary duties either in person or by deputies, who did not prove to be efficient servants in the district and taluka offices. Besides, the general progress of the revenue survey, which was started from 1837, rendered their services less and less necessary. The appointment of the Mamlatdars and the statistical and other data collected during the revenue surveys rendered these officers superfluous and redundant in the revenue administration. By the end of the first half of the nineteenth century, the watandars had lost

much of their *raison d'être*. The British thought it expedient to dispense with their services. Then, Government could have resumed the villages and the lands, which were assigned as remuneration for service; but, in order to avoid discontent and intrigue, adopted a liberal and conciliatory policy. The Inam Commission settled a few cases of the Belgaum district. But the agency of the Inam Commission for settlement of these holdings was found extremely laborious and dilatory. After some time in 1863, Government decided to appoint two Commissions presided over by Mr. Gordon for the Deccan, Konkan, and Southern Maratha Country and Mr. Pedder for Gujarat for settlement of the watan holdings.

The settlement of the watans was first started in the districts of Satara and Poona, where the watandars were given an offer to convert their watans into private property by the annual payment of a *nazarana* equal to an additional anna per rupee of assessment. But the watandars apprehended that if they accepted this condition, they would be placed at the tender mercy of their creditors who would pounce upon them. The watandars of the Poona district were, therefore, deadly against the conversion of their watans into private property. On the contrary, they insisted upon continuing their watans as inalienable in perpetuity. It would thus be clear that at the watandars' own request, Government agreed to continue their watans as inalienable after the service commutation settlement. They were subjected to payment of *judi* at 3 to 8 annas in a rupee. For the remaining districts in the Deccan, the watans were settled on these lines.

In regard to the settlement made in Gujarat by Mr. Pedder, the conditions were different. The Gujarat watans differed from the Deccan watans in point of origin, perquisites, etc. It is true that the commutation was made subject to payment of *judi* varying from 3 to 8 annas in a rupee of assessment and the sanads were given to the watandars like those in the Deccan. But the form of sanads given for the Ahmedabad district differed from that given for the districts of Kaira, Broach, Surat and Panch Mahals. The commuted watans in Ahmedabad were not recognised as the private property of the watandars; but such a right was to be given to a

watandar on payment in perpetuity of an annual nazarana of one anna in each rupee of the total emoluments of the watan. This condition was in conformity with the similar condition attached to the Deccan watans. As a result, the Ahmedabad watans after commutation were classed as Watan Class V along with the Deccan watans. But the sanads given for the remaining four districts of Gujarat contained the following condition which made the watans private enfranchised property of the watandar:

The watan shall be continued "without any objection or question on the part of Government as to title to whomsoever shall from time to time be the lawful holders thereof but without affecting the interests and rights of other parties." The sanads show the lands and cash commuted under the Pedder settlement. The right of alienability was recognised in the case of these watans, because that right was exercised by the watandars long before the settlement was made with the result that the watans changed hands either by sale, mortgage, etc. In short, the incident of alienability distinguished the Deccan and Ahmedabad watans from those in Kaira, Broach, Surat and Panch Mahals. The incident of private enfranchised property was recognised by Government in subsequent orders.* All the same, the watans in Gujarat did not cease to be watan property as defined in section 4 of the Bombay Hereditary Offices Act, 1874.† All these watans were shown as watan Class IV in the Alienation Registers prepared under section 53 of the Bombay Land Revenue Code, 1879. The entries in these registers show in column 11 the Deccan watans as 'hereditary' and those in four districts of Gujarat as "private enfranchised property". In some cases of Panch Mahals, the watandars were given sanads prescribed for the personal inams Class II, although the watans were decided as watan class IV and so entered in the Land and Cash Alienation Registers. This created an anomaly subsequently.‡

The arrangements effected were called "non-service settlement". It came into effect in 1873. The commutation fixed

* G. R., R. D. No. 4425 dated 16th December 1867.

G. R., R. D. No. 6502 dated 16th October 1900.

† *Bai Jadav v. Narsilal Harderam* (1900).

‡ See Appendices D and E of Joglekar's *Alienation Manual for forms of Sanads*.

represented not only the Government demand for service but a cure for a possible defect in title. As a result, the terms of the sanads offered by Government differed in different parts of the State and were not the same in all respects even in the same Division as seen above.*

Under those settlements, practically all the paragana watans were settled after 1863 except one of the Deshpande watan of the Nimbayat Mahal in the Malegaon taluka of the Nasik district. The watandar enjoyed lands and a cash allowance and paid for a clerk in the revenue court. That watan was the only uncommuted paragana watan in the whole State.

After the service commutation settlement in 1863-65 and the appointment of the Mamlatdars, the watandars had lost their *raison d'être* and had no function to perform. The British did not consider it expedient to discontinue their watans and antagonise the powerful district officers. Government also counted upon the loyalty of the watandars. After Independence, they outlived their utility and Government decided upon their abolition.

3. *Statistical data.*

The details about the watans before their abolition were as under:—

Number of watandars.	Area of the land in acres.	Assess- ment. Rs.	Judi. Rs.	Nuksan Rs.	Cash allowances Rs.
(1)	(2)	(3)	(4)	(5)	(6)
7,645	11,36,551	11,41,678	3,49,548	7,92,130	3,51,402

The above data clearly show that Government had to undergo an annual loss of Rs. 7,92,130 and Rs. 3,51,402 on account of nuksan and cash allowances payable to the watandars as a matter of political expediency.

4. *The Kulkarni watans.*

The Kulkarnis were hereditary village accountants, who were found only in the Central and Southern Divisions. They

For different kinds of sanads, see Appendix E in the Alienation Manual.

might possibly be the descendants or the remnants of the Gram-lekhaks of the old Hindu kingdoms. In view of their hereditary character, the service of village accountants was confined to particular families of the Brahmin caste. In the administration of the Deccan villages, there were checks and balances in the shape of village accountants being Brahmins and Patils being Marathas. During the Moghal and Maratha rules, the dynasties at the top changed but the village administration consisting of the Bara Balutedars continued unaffected and unchanged by the political changes in the country. Such a hereditary village service had, in those unsettled political conditions, the unique advantage of running the village administration without any hiatus.

But with the pacification of the countryside and the introduction of the survey and settlement and the Record of Rights in the villages, the village administration was placed on a systematic basis. Consequently, the defects of the Kulkarni system began to be felt as a result of the inquiries made in connection with the Revision Settlements in the Deccan in the latter part of the nineteenth century. To begin with, there was a complete disregard for economy or administrative convenience. The charges of the Kulkarnis were fixed by the pre-British grant of each watan to the specified holders with the result that it was impossible to change them according to the exigencies of the administration. The number of Kulkarnis had increased with the passage of time and was in excess of the requirements of the village administration. Although the remuneration was insufficient, in many cases, the amalgamation of watans was impossible.

Secondly, the system was incompatible with efficiency. Many Kulkarnis were not properly trained and instructed in their duties. It was also difficult to maintain discipline amongst them.

Thirdly, about 70% of the Kulkarnis did not officiate in person; but appointed deputies, who had to pay to the former (Kulkarnis) "swamitva" equal to one-third of the remuneration. Such illegal perquisites reduced the amount of remuneration of the officiator and tended the Kulkarnis to cling to the watan despite inadequate return from it.

In view of the rigidity, indiscipline and inefficiency, the hereditary system of Kulkarnis was found inadequate to meet the progressive requirements of modern village administration.

During the British regime, despite its defects, no attempt was made to abolish the system presumably because the British did not want to offend the feelings of the powerful Brahmins of the Deccan. The status quo was therefore maintained. But an attempt was made in the first decade of this century to commute the Kulkarni watans under the provisions of section 15 of the Bombay Hereditary Offices Act, 1874. In 1913, Mr. James McNeill proposed voluntary commutation of Kulkarni watans on terms which were expensive to Government; because too many talatis were provided to do the work formerly done by Kulkarnis. But, in view of the generous nature of the proposals, many Kulkarnis consented to commute their watans. In 1914, Sir Curtis suggested another scheme, the chief feature of which was payment of hereditary cash allowance equal to 1/3rd of the Mushahira. The work of commutation was taken up first in the Niphad taluka of the Nasik district and many watans were voluntarily commuted. Many Kulkarnis accepted the commutation in the districts of Nasik, East Khandesh, West Khandesh, Ahmednagar, Poona and Satara. The main principles of the commutation scheme were as under:—

(1) payment in perpetuity of a cash allowance equal to 1/3rd of the Akarni (remuneration for collection of land revenue) and potgi (maintenance); and

(2) continuance to the watandars of their watan lands subject to enhancement of judi by 1/16th of full assessment provided the judi so enhanced did not exceed full assessment. Those, who accepted the settlement, were granted sanads by Government.*

On the above principles, many kulkarni watans were commuted between 1914 and 1920. But many Kulkarnis did not accept the commutation in the Sholapur, Bijapur, Belgaum and Dharwar districts. As a result, they remained a source of trouble to Government thereafter. In order to bring round

* See Phadnis Watan Act, p. 94 for detailed discussion of the Kulkarni Commutation Settlements.

Kulkarnis of these districts, a Bill for compulsory commutation of the watans was drafted in 1914; but was not introduced presumably because of the political reasons. In 1938, the Congress Ministry took up the question of commutation but dropped it on the ground of financial liabilities involved. In 1946, it was finally decided to replace the kulkarnis by talatis as early as possible.

Remuneration.

Like Patils, the Kulkarnis were remunerated according to the Wingate Scale fixed in the seventies of the last century. It consisted of land and/or cash. Government had assigned land as remuneration which was to be held so long as the service was performed by the Kulkarnis. The scale* provided graded remuneration and potgi on the basis of the village revenues. Besides, they used to get extra remuneration for collection of local fund cess, irrigation dues and contingencies. As stated before, about 30% of the Kulkarnis officiated personally and 70% worked through deputies, who were poorly paid. The divorce between the Kulkarni watan lands and the actual officiators resulted in the frequent demands from the deputy officiators for increase of remuneration or grant of dearness allowance particularly after the increase in cost of living and duties after 1942. Since the Government policy was to encourage commutation and not to perpetuate the watans, Government rejected all requests for grant of dearness allowance to Kulkarnis.

The discontent resulted in the general strike of Kulkarnis in January 1950. The Karnatak districts which were the stronghold of the Kulkarni watans gave trouble by their resignations. But they gave up the strike when they found Government unyielding and definite in its policy for the abolition of the watans. The trouble caused by Kulkarnis pointed out the urgency for abolishing the antiquated system without further delay. Government therefore brought a Bill to abolish these watans in the autumn session of the Legislature in 1950. It was passed with a few amendments.

* For the	1st	thousand of gross revenue	4	%
" "	2nd	" " "	3	%
" "	3rd	" " "	2	%
" "	4th	" " "	1	%, etc.

On receiving the President's assent, it became law with effect from the 1st May 1951. After it was brought into force, the Kulkarnis filed petitions in the Bombay High Court challenging its validity. The High Court dismissed all the petitions in December 1951. These proceedings delayed the implementation of the Act in some parts of the State. Some of the Kulkarnis filed applications in the Supreme Court but withdrew them subsequently in despair.

Statistical data.

Before the abolition of the watans, the position of the uncommuted and commuted watans was as under :—

Division.	No. of Kulkarnis	No. of villages in charge	Cash allowances.	Emoluments			
				Land			
				Area.	Assessment.	Judi.	Nuksan
<i>Uncommuted</i>			Rs.	Rs.	Rs.	Rs.	Rs.
<i>Northern Division.</i>							
Kaira ...	1	1	264	...	...	...	...
<i>Central Division</i>							
Ahmednagar	457	1030	79566	10797	11776	9096	...
East Khandesh							
Nasik ...							
Poona ...							
Satara ...							
Sholapur ...							
<i>Southern Division.</i>							
Kolaba ...	2358	3528	243032	211237	255489	179537	...
Ratnagiri ...							
Dharwar ...							
Belgaum ...							
Bijapur ...							
Total ...	2846	4559	322862	222034	267265	188633	78632
<i>Commuted.</i>	7273	...	141637	58697	95262	68706	26556
Grand Total ...	10119	4559	464499	280731	362527	257339	105186

From the above statistical information, it will appear that there were 7,273 Kulkarnis whose watans were commuted.

There were 2,486 Kulkarnis, who were in charge of 4,559 villages, enjoyed nuksan and cash allowances of the order of Rs. 78,632 and Rs. 3,22,862 per annum.

5. *The Bombay Paragana and Kulkarni Watans Abolition Act, 1950.*

The provisions of the Act require elucidation. The Act applies to the paragana and kulkarni watans—whether commuted or uncommuted—of the Bombay State excluding the merged territories. It has dispensed with the services of the Deshpande watan of the Nimbayat Mahal (district Nasik) and the Kulkarnis. The commuted and uncommuted watans are abolished. All watan lands are resumed by Government and made subject to the payment of land revenue under the Bombay Land Revenue Code, 1879.

Sections 3 and 4 are very important and should be clearly understood to appreciate the implications of the Act. The fundamental assumption in the case of the paragana and kulkarni watans is that the original grant in their case was generally of land and not only of land revenue.* Government, therefore, had a right to resume the land itself and not to resume it merely by levy of full assessment. Section 3(3), therefore, provides for resumption of watan lands and subjects them to the provisions of the Land Revenue Code like other unalienated lands in the State. But in resuming the watan land, the alienations of such watan lands made according to the provisions of section 5 of the Watan Act or the rights of alienees thereof or person claiming through or under him are not affected. The alienations saved by section 5 of the Watan Act are (a) those which were made with the sanction of Government; (b) those of life interest to strangers by watandars, and (c) those to watandars of the same watan. For resumption of the watan lands under section 3(3), the watandars are not entitled to any compensation under section 9(1) of the Act. Further, it should be noted that in the case of watan lands which were decided to be alienable under the Pedder Settlement in certain districts of Gujarat are not affected by resumption under sub-section (3) of section 3.

* Phadnis' Watan Act, notes under caption "Grant of revenue or soil", p. 55.

After resumption of the watan lands, Government could dispose of the lands in accordance with the general orders for disposal of unalienated waste lands. But in view of the sentimental attachment created by the longstanding possession of the lands by the watandars, Government decided to regrant the lands to the watandars on payment of occupancy price equal to six or twelve times the assessment of the land according as the land was not assigned or assigned for service. Government could levy occupancy price because the original grant was of land and not of the royal share of revenue only. Government therefore had a 'lien' on the lands and hence the regrant has been made subject to payment of occupancy price. In the case of the paragana watans, the occupancy price is six times the assessment and in the case of the kulkarni watans which were assigned for service, the amount of occupancy price is twelve times the assessment of the lands. It should not be forgotten that the quantum of occupancy price is much less than the market value of the land. The period of payment of occupancy price was originally two years; but due to the famine conditions obtaining in a greater part of the State, the time limit for payment of occupancy price has been extended to three years (upto 30th April 1954) by recent amendment of the Act. If any watandar fails to pay the occupancy price within the prescribed period, he is liable to be summarily ejected from the land. If the watandar does not want to pay the occupancy price because he does not desire the regrant, permanent tenants or other alienees may pay the same and acquire the rights of occupancy. But the Act gives to the watandar the primary right to acquire occupancy rights on payment of occupancy price. Till the watandar pays the occupancy price within the prescribed period, the lands are to be shown as belonging to Government with subsidiary interests in the Record of Rights. His position is that of a licensee during that period. The regrant of the lands to the watandar is not to affect the subsisting rights of other persons over the land.

The regrant is however on new and impartible tenure. This provision follows the pattern of general orders for disposal of waste lands in the State. If any watandar wants to

make his lands transferable or partible, he has to apply to the Collector for permission at any time after the regrant. The Collector is to grant the necessary permission subject to the payment of nazarana equal to twenty times the assessment of the land. The amount of nazarana is in addition to the occupancy price payable under section 4(1) and is to be paid to Government in six equal instalments within one year after the necessary permission under section 4(2) is granted by the Collector.*

Sub-section (3) of section 4 saves certain types of watan lands from the provisions regarding payment of Nazarana. They are of two kinds, viz., (a) the lands which have been validly alienated under section 5 of the Watan Act and (b) those which have been decided as alienable under the terms of the commutation settlement. Under the latter category fall certain watan lands, which were decided as the private enfranchised property of the watandars under the Pedder Settlement in the districts of Surat, Broach, Kaira and Panch Mahals. Since the sanads granted to the watandars in the Ahmedabad district contain a condition regarding payment of nazarana of one anna in a rupee for converting the watan into a private property, they are not saved by this provision. As the watans under the Pedder Settlement were already decided as private enfranchised property, the watandars represented to Government to exclude them from the provisions regarding payment of occupancy price under sub-section (1). As a result, Government has amended sub-section (3) in order to exclude such watans from the provisions of sub-sections (1) and (2) i.e. the watandars whose watans have already been decided as private enfranchised property under the sanads granted under the Pedder Settlement have not to pay occupancy price and nazarana to Government on abolition of the watan character. To all intents and purposes, in the case of such watans, there is no regrant of the watan lands.

The Watan Act provides special rules for succession to those watans. Section 5 has abolished the special rules and the parties have been made subject to their personal laws.

* G. R., R. D. No. 2451/49-IV dated 18-9-1952.

Compensation.

Provisions for payment of compensation have been made under section 6, 7 and 9 of the Act. Section 6 deals with quantum of compensation payable for abolition of cash allowances and watans consisting of exemption from land revenue. Section 7 provides for payment of compensation to watandars whose watans were not commuted and who were entitled to serve before the Act came into force. Lastly, section 9 deals with other rights for extinguishment or modification of which compensation has not been provided in the Act.

For abolition of the cash allowances, compensation has been provided at seven times the annual amount of the allowance. The quantum of seven times the allowance has been adopted on an adhoc basis. The provision was that if the watan property consisted of a whole or a part of the land revenue of the watan land or village, the holder was entitled to receive it for his life-time. But if the holder died before the expiry of ten years from 1st May 1951, his heir or heirs would be entitled to get it for a period of ten years only. This provision had been made in order that the domestic economy might not be disturbed by the sudden death of the holder of the watan (section 6). However, this provision of section 6(2) has been recently amended. Instead of paying the compensation for the life-time of the watandar, the amendment limits the amount to ten times the amount annually payable to a watandar. This provision has been made in order to fit in with the provisions for payment of compensation in transferable bonds instead of in cash.*

Section 7 provides for grant of compensation to the Kulkarnis, whose watans were not commuted and who were still entitled to render service before the abolition of their watans. Provision was that they would get a sum equal to one-third of the total amount of emoluments payable annually in cash. The total cash emoluments would include only akarni and potgi and not other extra remuneration received on account of recovery of local fund cess or irrigation dues.† They (Kulkarnis) or their heirs would get the compensation for a period

* See the Bombay Land Tenures Abolition Act, 1953.

† However, Govt. has issued orders that the emoluments would include extra remuneration on a/c of collection of irrigation dues, etc.

of 21 years. But if a Kulkarni elected within one year, he could be given a sum equal to seven times the sum so annually payable in non-transferable bonds repayable by the State at the end of seven years at 3% interest.

The basis of the above provisions requires a little elucidation. At the time of commutation of the Kulkarni watans during 1914-20, the cash allowance equal to one-third of the cash emoluments was adopted on the suggestion of Mr. Baker in 1914. The compensation payable to the Paragana watandars was fixed at seven times the amount of the allowance. In order that the Kulkarnis should get the same quantum of compensation, it was provided that compensation at one-third of the annual allowance should be paid for 21 years i.e. seven times the annual allowance. For compensation under sections 6 and 7, a watandar is not required to make application under section 9. It would appear that the quantum of compensation provided for commuted and uncommuted watans is much more liberal than the circumstances of the watans would justify. This section has been recently amended under the Bill to amend certain Land Tenure Abolition Acts. The amended section provides for payment of compensation at seven times the amount of akarni and potgi annually payable before the Act came into force. The payment is not to be made in cash, but in transferable bonds only.

If a watandar feels that any of his rights are extinguished or modified under the provisions of the Act and are not covered by sections 6 and 7, he has to apply to the Collector for compensation under section 9. For resumption of the watan lands under section 3(3), a watandar is not entitled to any compensation as the original grant was of land and land revenue both. For similar reasons, watandars are not entitled to any compensation for their alleged rights over trees, mines, and stone quarries in watan lands or their right to make non-agricultural use in such lands. However, if any watandar is able to prove that his watan does not consist of land but of land revenue only, compensation has already been provided in such cases under section 6(2).*

* G.R., R. D. No. 4192/51 (C) dated 11th December 1952.

Section 8 gives statutory protection to protected tenants recognised under the provisions of the Bombay Tenancy and Agricultural Lands Act, 1948.

The remaining provisions contained in sections 9 to 14 are analogous to the provisions contained in other Land Tenure Abolition Acts passed by Government. They therefore require no elucidation.

Lastly, the provisions of (1) the Bombay Rent-free Estates Act, 1852, (2) the Summary Settlement Acts of 1863, (3) the Bombay Hereditary Offices Act, 1874 and its amendment of 1886 have ceased to apply to those watans. From sections 16, 58, 85 and 94-A of the Bombay Land Revenue Code, 1879, the word 'hereditary' is deleted.

6. *Effects of the legislation.*

The effects may be classified into administrative, financial and social. To begin with, the paragana watans were already non-service with the result that Government had not to make any administrative arrangements. But in the case of the uncommuted Kulkarni watans, there were 2846 Kulkarnis officiating personally or through their deputies in 4559 villages most of which were in the Karnatak districts. By reorganization of such villages, Government has appointed 1175 talatis to replace 2846 Kulkarnis at an annual cost of Rs. 12 lakhs. The villages are already surveyed and settled and have the Record of Rights. So, no other administrative arrangements are necessary in those villages.

Financially, the measure is a paying proposition. The receipts and expenditure (in lakhs) are as under:—

Receipts.		Expenditure.	
Recurring. Rs. 9	Non-recurring. Rs. 112	Recurring. Rs. 12	Non-recurring. Rs. 57

The recurring receipts are on account of the resumption of nuksan enjoyed by the watandars. Besides, Government has not to pay cash allowances amounting to Rs. 8 lakhs. But this is a negative gain.

The non-recurring receipts are on account of occupancy price at 6 and 12 times the assessment of the lands payable to

Government for regrant of resumed lands under section 4(1). This figure is exclusive of the amount of nazarana at 20 multiples of assessment that Government would get under section 4(2). The amount of nazarana would be considerable.

The recurring expenditure represents the pay and allowances payable to talatis appointed in the villages.

The non-recurring expenditure is on account of compensation payable under sections 6 and 7 of the Act.

In the result, the non-recurring receipts of Rs. 1,12 lakhs are double the amount of Rs. 57 lakhs payable as compensation to the watandars. Thus, the net gain to Government is of the order of Rs. 55 lakhs from non-recurring receipts and the amount of nazarana.

Socially, the legislation has not affected the livelihood of the watandars for several reasons. They are not dispossessed of the lands in their possession. If they have alienated the lands or do not cultivate them personally, they have to thank themselves and not to blame Government. Secondly, regrant of the lands is on payment of a low occupancy price and not market value thereof. The payment of nazarana comes in the picture only when the lands are disposed of in a manner which may yield unearned increment to a watandar. Many Kulkarnis did not officiate personally but worked by deputies i.e. they might be already following some profession for maintenance and were not tied down to their watans for their living. For practical purposes, the Act is therefore not likely to affect much the economic life of the watandars. But with the resumption of the watans, they are sure to go down in the social scale and lose what little influence and sway they had over the village administration.

On the whole, the abolition of the watans would increase the efficiency of the village administration and remove the vicious principle of hereditary service in public administration.*

*The hereditary patils and Mahars still remain in the village administration. The question of their abolition was considered by Government in 1949; but in view of the huge financial cost involved in the change, Government has shelved the question for the present.

CHAPTER II

THE SALSETTE ESTATES

1. *Introduction.*

The Salsette Khoti tenure which existed in the villages of the 'island' of Salsette requires to be distinguished from the Khoti tenure which has been abolished from the Kolaba and Ratnagiri districts by the Bombay Khoti Abolition Act, 1949. Salsette was one of the earliest acquisitions of the British Government on the western side of India, it having come into their possession in 1772-73. At the time of the acquisition, it was 'much de-populated and scantily cultivated' with the result that the question of improving the tract engaged the attention of Government. With this object in view, Government granted certain villages on leases on favourable terms to persons who undertook to attract population and introduce cultivation of superior kinds of produce. In these grants, we find the origin of the tenures of certain leasehold, proprietary and other villages, commonly though erroneously called the Khoti villages and the holders thereof Khots. Originally, the number of such villages was 50, out of the total number of 140 villages of the old Salsette taluka. The term 'salsette' is derived from Sashti—Sahasti, consisting of sixty villages. It was corrupted by the Portuguese into Salsette.

2. *The early history of the estates.*

The earliest authoritative document of a legal character relates to a dispute about the pichori rights in Malad in the reign of Allaudin II of Bedar (1520-22 A.D.). Here we are not concerned with the subject-matter of the dispute; but with the tenure and the revenue administration.

The island of Sashti was conquered by the Portuguese from a Mohamedan prince in 1534 and continued under them till the year 1737, when it was wrested by the Marathas. Till the year 1774, it was under the Peshwa's administration and came under the British rule in that year consequent upon the expulsion of the Marathas.

We now pass on to the Bombay Regulation I of 1808, which throws much light on the former agricultural development of the tract during the Portuguese and the Maratha regimes. The said Regulation was issued by the Governor of Bombay "for preserving the record of the principal rules respecting the revenue in the island of Salsette passed on the 24th February 1808". It was necessitated because the island was impoverished owing to the numerous heavy cesses levied by the Marathas after the expulsion of the Portuguese landlords and the unwise farming system introduced on the British conquest in 1774 A.D. In these circumstances, the Regulation embodied certain rules, which had the effect of introducing a simple and comprehensible revenue system. They had been framed in order "to promote the gradual restoration of the cultivation and towards restoring the inhabitants to more competent means of livelihood."

The Regulation is very important inasmuch as it gives an insight into the Portuguese, the Peshwa and the British revenue systems and the land tenures obtaining at the time of the introduction of the British Rule. The broad features indicated by it are summarized below:—

i Salsette was conquered by the Portuguese in 1534 from the Muslim prince and parcelled out among the European subjects into village allotments at a small quit-rent called 'foro'. Those European allottees continued the local usage of levying an *ascertained* and *permanent* rent called 'tokah' or 'demp' from the natives, who cultivated their estates. The landlord expected rent equal to half the crop share. The main crop was of rice called batty (paddy). For cultivation of surplus batty or rice lands, the Portuguese allotted to the cultivator spare grounds called Chikal and supplied seed. In such cases, one-third or one-fourth of the produce plus the quantity of seed advanced was expected by the landlord. In these estates, there were certain holdings on the Shilotri tenure (called serroter) which consisted of lands acquired on favourable terms by purchase from the Portuguese. Besides, there was another category of the Shilotri lands which consisted of certain plots of ground reclaimed from the sea by embankment or brought under the plough from the forest areas at the expense

of individuals, who continued to pay a fixed quit-rent without reference to the produce. Besides rice, coarser grains, pulses and vegetables were also raised in very limited hilly areas. The managers of the cultivation were called Mahataras (old men) during the Portuguese regime and the same term was continued in subsequent revenue records.

There were many cesses during the Portuguese and the Maratha period, which were set forth in section XXX, sub-section seventh of the Regulation. After annexation of Salsette in 1774, the British announced a new policy in 1799 which had as its objects "an increase of the revenue, a decrease in the expense and an amelioration in the condition of the inhabitants". The new system enjoined on the cultivators to pay a fixed assessment computed in grain at one-third of the average crop. If the grain assessment was commuted for cash payment, it directed a decennial valuation to be made for the purpose of guarding against the gradual diminution in the value of silver. In 1801, Government declared that the cultivators should be the full proprietors of their respective tenures (section XLVI). But the Bombay Land Revenue Code, which was subsequently enacted in 1879, did not recognise the proprietary rights in holdings but only the occupancy right. The distinction between the proprietary and the occupancy rights was, however, more theoretical than practical. But the East India Co.'s orders granting the proprietary rights in the estates led some Khots to question the legality of the applicability of the provisions of the Land Revenue Code to these estates.

In short, the objects of the policy and the rules embodied in the Regulation were to confirm the titles of all the cultivators in Salsette, to settle their assessment, and to enable them to deal with their estates by sale or otherwise as they pleased. The villages were granted in perpetual leases in order that the benefit of capital, energy and agricultural science of the European or Indian big landlords might be extended to them. It was a significant fact that the ryots agreed to hold under such grantees instead of holding under Government.*

The survey of the historical background shows that the revenue administration of these villages had a distinct origin

* Saldanha : "Law of Salsette Land and Town Development," p. 15.

clearly distinguishable from the revenue administration of the rest of the State.

Constitution of the village.

In order to appreciate different categories of holders in the Khoti villages, it is necessary to know the various categories of lands in them. The leases or kowls show generally that there were two broad categories of lands, viz. 'sarkari' and 'khoti'. This is noticed from the Deonar lease. The occupants of sarkari lands paid (pay) assessment direct to Government; but in respect of the khoti lands, the khot recovered rental from the lessees. The Ghodbunder lease shows that there were four categories of lands, viz. (1) inam lands, (2) suti lands, (3) assessed sweet batty and warkas lands and (4) Eksali and assessed waste. But the common categories were 'sarkari' and 'khoti'. It is relevant to add that in many leases, the exact or approximate areas of villages were not given and if they were given, they were in the antiquated measurements of dhemp, mooras, faras and adolis. The task of measuring and mapping out the boundaries of the villages according to the leases became therefore more difficult particularly after a period covering more than a century. The villages will have to be demarcated, having regard to the measurements or directions given in the leases, the lands reclaimed or brought under cultivation by the Khot and the physical configuration of the villages vis-a-vis other adjacent villages and their leases, if any.

In regard to the village administration, it is noticed that before abolition of the estates, there were generally patils and madhvis (inferior village servants) paid by the Khots and the Talatis by Government. The patils and madhvis were hereditary. The village administration was, therefore, controlled by the Khots through the patils.

3. *Survey of the Kowls.**

As stated before, the expression 'Khot' or revenue farmer was incorrectly applied to the holders of these estates. The fundamental fact about them was that they were granted by the British Government and originally governed by the Regu-

* Government Selection No. CLXXX—NS.

lation I of 1808. The principal estates were Kurla, Malad, Pawai, Goregaon, Deonar, Vovla and Bhandup. In order to appreciate the nature of these grants, which were either absolute, in fee simple, periodical or perpetual leases, it is necessary to know the salient features of each grant, which are summarised below.

The *Kurla* estate included seven villages, viz., Kurla, Mohili, Kole Kalyan, Marol, Shahr, Asalpa, and Parjapur. It was granted in 1809 to one Hormasji Bamanji Wadia in exchange for a piece of ground belonging to him in Bombay near the Apollo Gate. The difference between the revenue of these villages and the yearly interest on the amount at which the plot of ground in Bombay was valued was made payable yearly to Government. In 1840-41, this annual rent was redeemed by the payment of a lump sum of Rs. 25,000 and the estate was conveyed in fee simple, exclusive of excise rights. Certain lands in these villages were held direct from Government by original occupants. The survey settlement was introduced in them in 1878. Shri Ardeshir Hormasji Wadia was the Khot at the time of the abolition of the estates.

The *Malad* estate consisted of seven villages, viz., Malad, Dahisar, Magatna, Tulsi, Arc, Eksar and Kaneri and part of Pahadi. It was granted in 1806 to one Ardeshir Dadi in exchange for a plot of ground in the Fort of Bombay known as Harjiwan Lala's garden. The exchange was sanctioned subject to the payment of the difference between the revenues of the villages and the yearly interest on the amount at which the Bombay plot was valued. The villages were finally conveyed in fee simple by a document of 1819, subject to the annual payment of Rs. 2,440/-.

The *Pawai* estate included six villages viz. Pawai, Tirandaj, Kopri Khurd, Saki, Paspoli and Tungawa. It was originally given in perpetual farm to Dr. Helenus Scott in 1799; but owing to his death and non-payment of rent, it was attached by Government. In 1829, however, it was again leased in perpetual farm to one Framji Kavasji and in 1837, was conveyed to him on payment of Rs. 47,470 in fee simple burdened with the charge of maintaining a reservoir on the Duncan Road

in Bombay. The last Khot was Sir Mahmed Yusuf as the trustee of the Wakf property of the estate.

The Goregaon estate included six villages, viz., Goregaon, Majas, Poisar, Mogra, Bandivli, Oshivra and part of Pahadi. It was granted in farm in 1830 to one Kharsedji Kawasji and was subsequently conveyed by deed in fee simple on payment of Rs. 30,000, subject to the annual payment of Re. 1/-. This estate changed many hands. The last Khot was Sir Behramjee Jeejibhai.

The Deonar estate included five villages, viz., Deonar Borla, Kirol, Chena and Versawe Borbhat. It was granted in perpetual lease to one Dhiakji Dadaji in 1809 on a rental of Rs. 5,180. The last lessees were Messrs. Hirjibhoy D. Billimoria and Kirol Land Ltd. in respect of Deonar, Borla and Kirol and Shri G. V. Velkar for Chena and Versawe.

The Vovla estate included three villages, viz., Vovla, Vadavli and Chitalisar. It was granted by the East India Co. in 1803 to one Gopalrao Bapuji, the Vakil of the Gaekwar of Baroda. Since the estate has been treated as personal inam, it has been excluded from the legislation to abolish these estates.

The Bhandup estate included the village of Bhandup and lands in Nahur and Kanjur. They were leased in perpetuity in 1803 to Mr. Luke Ashburner for an annual rental of Rs. 2,350. A plot of ground was excepted and granted to one Kavasji Manekji. The lessees were Shri Mathuradas Vasanji for Bhandup and Sir Mahmed Yusuf and Mathuradas for Kanjur.

Apart from the estates mentioned above, seventeen villages were granted by the British in inam or on lease. In 1799, Chandivli was leased in perpetuity to Dr. Helenus Scott and was sold in 1828 by the Civil Court when one Vikaji Merji of Tarapur purchased it. After changing several hands, it was last held by Shri Amratlal D. Sheth by purchase.

The village Vyaravli was farmed in 1805 in perpetuity to Gregoria Manual de Silva but no deed was passed. The last holder was Mr. A. J. C. Wilson.

In 1829-30, the village Hariali was granted half in perpetual inam and half in perpetual farm to one Merwanji Rus-

tomji Darukhanawala. It was on sharakati tenure. The last lessee was Shri Suraji Vallabhdas.

In 1830-31, the villages Chinchavli, Dindoshi and Akurli were leased in perpetuity to one Laxman Harischandra subject to an annual payment of Rs. 780. The Estate Investment Co. Ltd., were the last lessees of Chinchavli and Dindoshi, whereas Sir Purshottamdas Thakordas was the lessee of Akurli as Trustees of the Goraksha Mandal.

The villages, Maravli and Mahul were given respectively in inam in 1837 and in perpetual farm in 1831 to one Framji Pestonji, the head servant of the Government House. The last lessee was Shri Kaikhushru Jehangir Divecha for Maravli and Shri Fardun Jijibhai Divecha for Mahul.

The Valvai and Vadhwan villages were granted as hereditary inam in 1830-31 to one Hormasji Rustomji, the treasurer of the Satara Residency.

In 1831, the village Borivada was leased to one Krishnarao Raghunath. The last lease-holder was Mrs. Mani J. A. Doctor.

The Kanjur and Vikroli villages were leased in perpetual farm in 1833-34 to one Framji Kwasji, subject to the annual payment of Rs. 930. The last lessees were Messrs. Godrej Boyce and Co. Ltd.

In 1836-37, Anik was leased for ninety-nine years to Framji Nassarwanji. Its lease expired in 1935-36 with the result that the village was resumed by Government.

In 1844-45, the village Ghatkoper was leased out for ninety-nine years to one Ratanji Edalji. The lease expired in 1943-44 with the result that the village was resumed by Government.

In 1842-43, Vile Parle and Juhu were granted in inam to one Naoraji Jamshedji. In the Privy Council decision, it has been held that the original grant was not merely an assignment of Rs. 4,000 p.a. out of the revenues of the villages, but was a grant of the villages subject to certain conditions attached to the grant. The last lessees were the N.J. Wadia Trust.

Lastly, a large estate of 3,688 acres, exclusive of salt marsh, was granted by deed dated 1870 to one Ramchandra Laxmanji of Bombay on lease of 999 years in the villages of Ghodbunder,

Bhayandar and Mira. As the villagers refused to keep the large Bhayandar embankments in repairs, Government granted this estate. The deed contained special conditions for keeping the embankments, dams and sluices in good repairs. Amongst other conditions, the deed stipulated that the lessee should not demand rent from inamdars; that he should demand only survey rates from suti and varkas lands; that he should keep boundary marks in good repairs; that he should pay patel's and hereditary officers' claims and allowances; that he should not interfere with rights of way; that he should surrender land for the Bhayandar railway station; that he should give notice of the assignment of lands; and that the salt marsh lands were liable to resumption if not reclaimed within 20 years.

The last lessees were the Estate Investment Co. Ltd.

From the foregoing facts, it will appear that, in all, there were 51 villages, 31 in the Bombay Suburban district and 20 in the Thana district, although all of them originally belonged to the old Salsette taluka of the Thana district.

(1) These villages may be broadly classified into two categories, viz.,

(a) those granted in fee simple by right of absolute ownership and

(b) those granted on perpetual lease or for 999 years.

The villages were on a privileged tenure and in actual practice, there seemed no difference in those two categories. In view of these considerations, Government decided to abolish these estates under one legislation.

(2) The motives of the grants were different, viz.,

(i) exchange of lands (Kurla & Malad estates),

(ii) revenue farms (Estates of Pawai, Goregaon, Deonar, Bhandup, Hariali, Chinchavli, Maravli and Mahul, Borivade, Kanjur and Vik-
roli),

(iii) hereditary inam (Valvai and Vadhwan, Vile Parle and Juhu), and

(iv) maintenance of embankment (Ghodbunder, Bhayandar & Mira).

(3) The most important right enjoyed by the Khots was exemption from payment of partial or total payment of land revenue.

(4) Most of the villages were granted to Parsis who ventured to develop villages.

(5) Lands held at the time of the lease on the Shilotri tenure or in some deeds on the suti tenure were not to belong to the lessee unless he satisfied or bought out the holders.

(6) Rates of assesment were not to be raised.

(7) Kowls and leases stipulated that the lessee had to pay for the village patels and Madhvis.

(8) The lessees had to continue religious and charitable grants in land and cash to the Roman Catholic Churches, the Hindu temples and the Mahomedan mosques which had been continued under sections 67 and 68 of the Regulation I of 1808.

(9) It need not be said that the lessees had to bring waste lands under cultivation, raise superior kinds of produce and populate the villages.

(10) The lessees had to pay to Government a small fixed sum as stipulated in the laeses, and enjoy the surplus which was not much at the time of the grants.

(11) The areas of the villages were in the nature of things not definitely indicated but were roughly stated in the antiquated measurements of dhemp, mooras, faras and adolis. Generally the boundaries of the villages were indicated.

(12) The rental was specified in mudas or rice measures, and not in cash. This muda calculation was made according to the system peculiar to the Salsette called the Tijai or one-third. Under that system, the Government rental was found by multiplying the quantity of dhep by two, dividing it by three and multiplying the quotient by twenty the number of rupees at which each muda of land was assessed.

(13) In some cases, the waste land was granted free from payment of assessment for the first forty years. And with effect from the forty-first year, all lands except those which were totally unfit for cultivation were to be assessed.

(14) The lessee was to recover and pay into the treasury, over and above the amount mentioned in the lease, all amounts due on the leases granted in the estate.

(15) The village was not to change hands without the permission of Government.

(16) In the Kowls of (a) Ghatkopar, (b) Borivde, (c) Mahul and Maravli, (d) Anik, (e) Chincholi, Dindoshi and Akurli and (f) Vikroli and Kanjur, the condition was incorporated to the effect that the lessee was a farmer (of revenue) with powers and penalties under Chapter VI of Regulation XVII of 1827. But he was to exercise no judicial or magisterial authority, unless it was duly conferred upon him.

(17) The forest rights seem to have been conceded in the case of the big estates like Pawai, Malad, Kurla, Goregaon and the smaller estates like Deonar, Valnai, Vovla, and Hariali.

From the above review, it is clear that the rights conceded to the Khots in respect of these villages were not without responsibilities. We will discuss presently how far the above conditions and purposes of the leases were carried out by the Khots.

Forest rights.

In the old Salsette taluka, there are many villages with forest areas. In several Kowls, we find specific mention about the grant of such rights to the khots and, in some, it is specifically stated that the forests vested in Government. The following facts are gleaned from the leases.

In Bhandup, the forest rights were not conceded to the Khot; but in Kanjur, they vested in the Khot.

The forest rights in Vyaravli vested in the Khot.

In Chandivli, full forest rights over teak and injaili trees and other minor forest produce vested in the lessee.

In Chinchavli, Dindoshi and Akurli, the forest rights had been conceded to the lessee.*

In Borivade, the forest was the property of Government.†

*Government Selection No. CLXXX-NS at page 14, para 98 of Pestonji's report.

† Do. Do. para 121 at p. 16.

The forest rights seem to have been conceded in the big estates like Powai, Malad, Kurla, Goregaon and smaller estates like Deonar, Valnai, Vovla and Borivde*. In other leases, the grant of such rights is not clear.

5. *Case for abolition of land revenue exemption.*

We have noticed that the twin purpose of populating the leased villages and bringing waste lands under cultivation was not served. Even the Bombay Gazetteers (1886)† lamented as follows:—

“The object with which Government granted these villages has been defeated and the results are disappointing. Few of the estates remain in the families of the original grantees. They have been sold chiefly owing to money difficulties. The owners rarely live in their estates or take much interest in them or in the welfare of the people”.

Instead of promoting agriculture, the grantees allowed grass to grow and sold it in Bombay. This fact was even noticed by the Settlement Officers during the original and revision settlements of the taluka in 1861 and 1896, respectively. Captain Francis (1861)‡ observed that “In some places, rice lands are left waste for the growth of grass which would seem to indicate that it yields as large a return as rice.”

Apart from the agricultural activity, in view of the tremendous and rapid growth of Bombay, these villages which form its hinterland, have witnessed in recent years an unprecedented building activity for housing its population and industrial plants. Owing to the conditions in the leases, Government had no control over the non-agricultural activities in these villages. The net result was that the buildings and factories were put up in the manner the Khots liked and huge amounts of non-agricultural assessment accrued to them. These ‘unearned’ increments were windfalls to the Khots, who had only to pay a small fixed

* Bombay Government Gazetteer, Thana District, p. 547.

† *Ibid*, p. 548.

‡ Government Selection No. CCCLVIII-NS para. 99 at p. 13.

sum to Government. The ridiculous nature of the payment and the great loss in revenue sustained by Government can be seen from the petty payments made by Khots to Government, viz.,

Estate.	Annual amount paid to Government.				
	Rs.				
Deonar estate (5 villages)	4,710				
Bhandup	2,338				
Vikroli	649				
Vyavavli	778				
Chandivli	720				
Ghodbunder	10,000				
Bhayandar					
Mira					
Chinchavli					
Dindoshi	5,000				
Akurli					

From the illustrative cases cited above, it will be clear that the Khots under the leases were pocketing large annual revenues from the villages without making commensurate payment to Government. This was clearly a financial anomaly, as the system entailed a great loss to the public fisc.

Besides, there were many disputes between the Khots and the ryots about their right to grazing areas, roads and village commons. So long as the Khots were protected by the Kowls, Government could not have effective interference in those villages.

Lastly, in furtherance of the Government policy to extend the Tenancy Legislation to these villages and to abolish all sort of watans, inams and exemptions from payment of land revenue, it became necessary to abolish the land revenue exemption in those estates.

In the result, Government decided upon the abolition of those special rights of Khots. In the autumn session of 1951, Government introduced the necessary legislation in the Legislature which was passed without any amendment. After obtaining the President's assent, it was brought into force with effect from the 1st March 1952. Necessary Rules for carrying out the purposes of the Act have been framed.

6. *The Salsette Estates (Land Revenue Exemption Abolition) Act, 1951.*

It may be recalled that the essential characteristic of the Salsette Estates was that the Khots enjoyed exemption partially or wholly from payment of land revenue. Because of this fundamental feature, the legislation is called The Salsette Estates (Land Revenue Exemption Abolition) Act, 1951. It was brought into force with effect from the 1st March 1952. It applies to the 51 villages specified in the Schedule to the Act, which are situated in the Thana and Bombay Suburban districts.

Section 2 contains definitions. Among them, the definitions of the words 'estate', 'estate-holder', 'kowl' and 'permanent holder' are important for properly understanding the provisions of the Act. As the estates were governed by the Kowls of different types, the word 'kowl' has been defined to mean a lease, a farm or an agreement under which an estate is held from Government. The expression 'estate' has been defined as a village or a part thereof specified in the Schedule attached to the Act. The estates consist of entire villages or parts of villages (like Hariali, which was half inam and half sharkati in character). And in order to avoid doubt as to the exact villages covered by the Act, a schedule showing the names of such villages is appended. Some of the villages were grants in fee simple; some were perpetual grants; some were periodical grants and some were treated as personal inams; but as they were all situated in Salsette having the same exemption from payment of land revenue and other geographical and administrative similarities, they have been put together under this Act.

The term 'estate-holder' means a holder of the estate and includes any person lawfully holding under or through him. Thus, the rights of the lessees or mortgagees of the estates or parts thereof are recognised.

The definition of a permanent holder is very comprehensive and includes a sutidar, a shilotridar, a peasant proprietor, or a holder who was in possession of the land in an estate before the grant of the Kowl and whose rights have not been acquired by the estate holder or who permanently holds any land on payment of assessment to the estate-holder. This definition is very important in the context of the provisions of section 3, which recog-

nises certain types of holders as occupants within the meaning of the Land Revenue Code, 1879.

Section 3 is the pivot of the Act and has been framed with a view to preserving the Khot's rights in his estate as well as furthering the agrarian reforms policy of Government regarding conferment of occupancy rights on sub-holders. All lands in the villages are made liable to the payment of land revenue under the provisions of the Code. It appears from the wording of the section that the Kowls under which the grants were made by the British Government are not abolished or cancelled; but the Khot's rights to the lands are generally preserved. He is not dispossessed of his lands except the waste lands referred to in section 4. He is made an occupant of the land in his actual possession as a khot or in the possession of any person who holds the same through him or under him. This means that section 3(1) (b) recognises the following persons as occupants:—

(1) a Khot in respect of the lands in his actual possession i.e. land under personal cultivation,

(2) a Khot in respect of the lands which are in possession of any other person, who is a lessee or a mortgagee, and

(3) sutidars, shilotridars, peasant proprietors, kadim holders, whose rights have not been acquired by the Khot or a permanent tenant, who pays only assessment to the Khot.

These persons are recognised as occupants within the meaning of the Land Revenue Code and shall be liable to the payment of full survey assessment and not a small fixed rent or a sum of money which the Khots used to pay under the Kowls. However sub-section (3) of the section 3 saves the rights of persons to hold any land in these villages wholly or partially exempt from payment of land revenue under a special contract or grant made or recognised in the Kowls in favour of a person other than the Khot. This proviso was necessary in order to save the devasthan, dharmada and service inams of patels and inferior village servants like Madhavis recognised in several Kowls.

In the result, it will be clear that the Act recognises as occupants holders, who virtually enjoyed the status of an occupant before the introduction of the Act and does not affect the rights of the Khots in respect of these lands. The persons like

sutidars, Kadam holders and others, who were paying assessment to the Khot will pay the same directly to Government. To this extent, the Khot's rights will be affected. If he is aggrieved for extinguishment of this right, he may claim compensation under section 7 of the Act. All the sub-holders covered by the term 'permanent holders' are levelled up and freed from the harassment of the Khot and made directly responsible to Government for payment of land revenue.

Section 4 provides for vesting certain types of lands in Government. They are as under:—

- (a) waste lands which are not the property of the estate-holder under the terms of the kowl;
- (b) waste lands which have not been appropriated or brought under cultivation before the 10th August 1951, when the Bill for abolition of the land revenue exemption was published in the Bombay Government Gazette; and
- (c) all other kinds of property such as public roads, lanes, paths, etc., referred to in section 37 of the Land Revenue Code, which were used by the public even before the enactment of the Act.

As regards waste lands at (a), the lands were outside the covenants of the kowl with the result that they did not belong to the Khot. No compensation could be claimed by a Khot for vesting such lands in Government.

As regards waste lands at (b), the leases generally stipulated that the waste lands demised in the kowls should be brought under cultivation by clearing brab and date trees, building dams, sinking wells and building and repairing tanks (e.g. Powai and Vikroli kowls). It is true that for non-observance of these conditions, Government did not consider it expedient to cancel the leases or resume grants; but during the original and revision settlement of the old Salsette taluka, the Settlement Officers criticized the Khots bitterly for their failure to carry out the purposes of the kowls.

It is alleged that the expression 'appropriated' used in the sub-section 4(b) has not been defined even in the Land Revenue Code. Consequently, it is found difficult to ascertain the exact area of waste lands that would vest in Government under this

sub-section. The expression would seem to cover generally lands, which have been brought under cultivation or built upon or otherwise appropriated by the Khots, i.e., permanently diverted or used.* It would therefore cover agricultural and non-agricultural uses set forth in section 48 of the Land Revenue Code. The leases whether agricultural or non-agricultural made by the Khots would amount to appropriation. As a result, lands covered by such appropriations either by the Khot or any person through him or under him would not vest in Government and would continue to be the property of the Khot.

Lastly, as regards the properties at (c), public roads, lanes, paths, etc., grazing grounds, cremation grounds, threshing floors, etc. were assigned for the public or were in use and enjoyment of the public and the interest of the Khot in them was only nominal. What the Act does is to formally vest them in Government; but for extinguishment of the notional right of the Khot in such properties, compensation has been provided in section 7.

It may be noted that it is only under this section that certain types of properties in these villages are vested in Government and that the remainder continues to vest in the Khot or persons who have lawfully acquired any lands either from Government or the Khot. This fact is sufficient to lay the ghost of expropriation of the entire Khoti villages raised by some interested parties.

Section 5 vests in Government the rights in trees which are specially reserved by the Land Revenue Code, the Indian Forest Act, 1927 or any other law for the time being in force; but in the remainder, the Khot's rights are maintained as hithertofore. As stated before, in the big estates like Powai, Malad, Kurla, etc., the Act does not provide for extinguishment of these rights. If those rights are extinguished, Government would have to pay huge compensation. If there arise any necessity or expediency in future for maintenance or preservation of any forest in these villages, Government is competent to take over management of such private forests under the Indian Forests Act as amended by the Bombay Act LXII of 1948. In short, the Khot's rights in trees and forests, which were granted to him under the kowl

* Secy. of State *vs.* Laldas Narandas : 12 B.L.R. 16.

and which were not reserved by Government under any law in force are not affected by the Act. This provision has led some Khots, it is understood, to cut down the forest and make money in order to forestall any action by Government. In the cases of deliberate felling of trees or lopping thereof without any regard for the forest wealth of the country, there is a clear case for Government to step in and prevent further mischief to the fast disappearing forest areas of the country.

Section 6 provides specifically that the provisions of the Land Revenue Code shall apply to the lands in the estates, except as otherwise expressly provided in this Act. This provision seems to have been inserted because there was doubt whether the provisions of the Land Revenue Code were applicable to these estates, which were treated as proprietary. The point was raised in the case of Haji Abdulla v. the Secretary of State* in the case of the Ghatkopar village. The condition 12 of the lease that the lessee was a farmer of revenue with powers and penalties under Chapter VI of Regulation XVII of 1827 was held sufficient to bring the village under the operation of the Land Revenue Code. For removal of any doubt in regard to the applicability of the Code to these villages, express provision has been made in this section.

Compensation.

Section 7 provides for payment of compensation in respect of the following rights only:—

- (1) for reversionary right in any estate at the rate of Rs. 10 per 100 acres of such lands,
- (2) for extinguishment of any right in any waste land or in any other property referred to in section 4(c) at the rate of Rs. 25 per 100 acres of such land, and
- (3) for modification or extinguishment of any other right in the estate according to the provisions of sub-section (1) of section 23 and section 24 of the Land Acquisition Act, 1894.

It must be made clear that the kowls are not cancelled and the estates are not completely resumed; because such a measure

* 13 Bom. L. R. 883.

would have involved Government into payment of colossal compensation. So, while keeping the kowls intact, the Khot's certain rights in the estates are either modified or extinguished for which compensation has been provided in the Act.

As regards the rights of reversion, a person can claim such a right only in cases in which he may have absolute proprietary rights. In these villages, there are many permanent holders like sutidars, shilotridars and persons paying only assessment or fixed rent to the Khot. After the abolition of the exemption from payment of land revenue and removal of the intermediary-khot, it is likely that a khot might claim compensation for the right of reversion in respect of such holdings. But the Khot's right in such holdings would be notional, because Government could claim such holdings by right of escheat or bona vacantia. In view of these considerations, the Act provides compensation at a rate of Rs. 10 per 100 acres of such lands, which should be deemed adequate.

As regards vesting of the waste and other public lands under section 4(c), it is clear that the property vested has already been assigned for public purposes like roads, lanes, paths, etc.; and is in the enjoyment of the public. As a result, the interest of the Khot in such properties is nominal and its market value would be notional. Consequently, compensation is payable at a rate of Rs. 25 per 100 acres of such lands.

Apart from these two notional rights, if any Khot can prove that any other rights are modified or extinguished, he may apply to the Collector for compensation, who is to be guided by the provisions of sections 23(1) and 24 of the Land Acquisition Act, 1894. Since the lands appropriated by the Khot are not affected and the forest rights are not abridged, it is presumed that there will be hardly any claims on account of 'other rights' referred to in the provision to the section.

Lastly, the Khots cannot claim any compensation on account of extinguishment of the exemption from payment of land revenue because it has been held in the case of *Maharaja Kunwar Lalsing v. C.P. and Berar Government* (1944) F.C.R. 284 that a person is not entitled to any compensation for re-imposition of full assessment on extinguishment of a right to exemption from payment of land revenue.

The Collector is to assess and award compensation after holding formal inquiries. If any person is aggrieved, an appeal lies to the Bombay Revenue Tribunal. Recently, Government has decided to pay compensation in transferable bonds bearing 3% interest and repayable during a period of 20 years in equated annual instalments of principal and interest. Necessary amendment to the Act has been carried out.

In the result, Government will not have to pay heavy compensation under the Act. However, expenditure will have to be incurred for introduction of the survey and settlement and the Record of Rights in villages where they have been partially introduced or not introduced at all. But this cost can be spread over years.

7. Consequences of the legislation.

The Act will have far-reaching effects from the points of view of administration and the well-being of the people.

Administratively, the Act removes great snags from the survey and settlement operations in the villages. Because of certain covenants of the kowls, and certain provisions regarding introduction of survey and settlement in the alienated villages,* Government could not introduce these operations without the consent of the Khot. The Khot's consent was not readily forthcoming and in the absence of the consent, Government could not introduce these measures. The result was a stalemate and a status quo ante. The application of the provisions of the Bombay Prevention of Fragmentation and Consolidation of Holdings Act, 1947, was extremely difficult, if not impossible. The Act has removed these hurdles and has paved the way for these operations and Record of Rights. The survey and settlement and Record of Rights require to be immediately introduced. The steps are already under way.

It may be argued that if the kowls and leases are not abolished, it may not be possible for Government to levy non-agricultural assessment and that mere extinguishment of the land revenue exemption enjoyed by the Khots would not enable Government to achieve its objective of removal of the intermediaries.

* Section 216 of the Land Revenue Code before its amendment in 1946.

This argument emanates from the superfluous reading of the Act. It is true that the kowls are not abolished under the Act. While the scaffolding of the kowls is kept standing, the pith and substance is taken away by applying the provisions of the Land Revenue Code. Now Government is competent to levy full agricultural and non-agricultural assessment from the villages which could not be done before. From this perspective, it would appear that the Act has robbed away the soul of the Khoti system and allowed the skeleton to stalk the villages! And what would be the gain to Government? The question should be answered with reference to the land values and the extent of the non-agricultural activity in the villages. In view of the proximity to Bombay, the city population is spilling over the suburbs for residential and industrial purposes. One has to look to Malad, Kurla, Anik, Vikroli and other villages for this. Apart from the agricultural assessment, the levy of non-agricultural assessment alone will yield to Government several lakhs of rupees. And this gain will set off any cost on account of the cost of compensation or alternative administrative arrangements that Government will have to make either on account of the survey and settlement operations or appointment of patels and inferior village servants. It is estimated that the survey and settlement operations are likely to cost Government Rs. 25,000. Compensation will be payable to the tune of Rs. 66,000. The cost of appointment of patels and other staff is estimated at Rs. 36,000 p.a. The additional annual amount of land revenue will be in the neighbourhood of Rs. 5 lakhs. This figure does not include the amount of several lakhs on account of the non-agricultural assessment. The broad financial implications of the legislation are as follows: —

Receipts.		Expenditure.	
Recurring	Non-recurring	Recurring	Non-recurring
Rs. 5,00,000 (net additional agricultural revenue plus Rs. 20 or Rs. 25 lakhs of n.a. revenue)	<i>Nil</i>	Rs. 36,000 (additional staff.)	Rs. 66,000 (compensation) Rs. 25,000 (survey and settlement)

This land reform is an aid to taxation. So far, the Khot paid only a petty sum or rental which was fixed or stipulated in the lease more than a century ago. The continuance of the exemption from payment of land revenue entailed heavy loss to Government on account of both agricultural and non-agricultural land revenue. When the State is charged with the responsibility for the maintenance of all kinds of administrative amenities in the villages, it is but fair and equitable that the State should have a fair share of revenue from them. The Act removes this financial anomaly from the administration.

In the modern progressive set-up of village administration, the Khot was no longer needed to collect land revenue on behalf of Government. So, this intermediary goes away and the ryot is brought directly in contact with Government.

From the point of view of the ryots, the change-over will prove very beneficial. Disputes about payment of rent between the Khots and tenants have already been settled under the provisions of the Bombay Tenancy Act, 1939 which was applied to the whole Bombay State except the City of Bombay. During its operation, tenants of the villages acquired protected tenancy rights. Subsequently, several villages of the Bombay Suburban district have been included in the Master Plan of the Greater Bombay Scheme. The Bombay Tenancy and Agricultural Lands Act, 1948 has not been applied to the areas included in the Master Plan. In this area, it is held that no new protected tenancy rights will be created; but the existing rights of protected tenancy acquired under the Bombay Tenancy Act, 1939 will not be affected. Legally, this may be the position, but in practice, the protected tenancy rights are frozen.

Disputes about the grazing areas, threshing floors, rights of way, etc., were not uncommon and in view of the privileged tenure, Government could not have questioning interference in the villages. Permanent holders, who cover many categories of cultivators are made occupants and thus directly responsible to Government for payment of land revenue. Consequently, the Khot ceases to be the Khot—an overlord—of the village and is levelled down to the position of an ordinary land-holder. Because of the application of the Land Revenue Code, the Collectors

are now in a position to assign lands for public purposes under section 38 of the Code.

Like other Land and Inam Tenures Abolition Acts, the effects of this Act will be slow and gradual and its operation will result in considerable increase of revenue to the public fisc and reducing work at all levels in the village administration.

8. *Implementation.*

After the enforcement of the Act on 1st March 1952, Government has appointed special staff consisting of a Mamlatdar, Aval Karkuns, clerks, Circle Inspectors, Talatis, Surveyors and peons for the implementation of the Act. The work of preparing the Record of Rights in the surveyed and settled villages is well-nigh complete. The steps for introduction of survey and settlement in the villages are being taken. Simultaneously, inquiries are undertaken to measure and map out the waste and other lands that have vested in Government under section 4. The difficulties in ascertaining the exact limits of the villages and the areas that have vested in Government are obvious; but they have to be got over by adopting practical rough and ready measures for ascertaining them. The survey of the villages by the Land Records Department would go a great way in removing these obstacles.

It is understood that out of the mistaken belief that the Act abolishes all their rights and vests entire villages in Government, the Khots have submitted fabulous claims to compensation, and some have gone to the length of challenging the validity or competence of the State Government to enact such a legislation. From the explanation of the provisions of the Act given above, it will be crystal clear that the provisions are misconceived and the claims appear to have been advanced out of ill-founded fear of expropriation. Time alone will show the validity and propriety of such a legislation.

CHAPTER III

SARANJAMS AND POLITICAL INAMS

1. *Introduction.*

In the seven categories of the inams and watans, the saranjam and political inams were treated as inam class I. The saranjam grants were found mainly in the Deccan; but the grants of political nature were found scattered all over the State.

Jahagirs and Saranjams.

The expression 'Jahagir' is a Persian word compounded of two words, *Ja* or *Jai* meaning a place or position and *gir* meaning taking or occupying. Literally, it means (1) holding or occupying a place of position or (2) holding land. But owing to its political association, it acquired a technical sense meaning a tenure of a particular kind. It was a tenure which was common under the Muslim Rule in which the public revenues of a given tract of land were made over to a servant of the State. The word "saranjam" literally means apparatus, provisions or materials. In his Glossary, Wilson defines saranjam as temporary assignments of revenue from villages or lands for support of troops or for personal service usually for the life-time of the grantees; all grants made to persons appointed to civil offices of the State to enable them to maintain their dignity and to grants for charitable purposes. They were neither transferable nor hereditary and were held during the pleasure of the Sovereign. This definition is corroborated by the description of the saranjam given by Mountstuart Elphinstone in his "Report on the Territories conquered from the Peshwa."*

According to the account given by Col. Etheridge in his preface to the Saranjam List, it was the practice of the former Governments, both the Muslims and the Marathas, to maintain a species of feudal aristocracy for the State purposes by temporary assignments of revenue either for the support of the troops or personal service, the maintenance of official dignity or for other specific reasons. The holders of such lands were

* Report, p. XXVI of its appendix.

entrusted at the time with the necessary powers for enabling them to collect and appropriate the revenue and to administer the general management of the lands. Under the Muslim rule, such holdings were called Jahagirs and under the Maratha rule, they came to be called Saranjams. However, this distinction between these tenures ceased to exist during the Maratha period. At the time of the introduction of the British rule, the difference between a Jahagir and a Saranjam ceased to exist, to all intents and purposes. The two terms became convertible and all such grants came to be known by the general term 'saranjam'. Apart from the Saranjam grants, which were found only in the Deccan, there were other grants of a political nature found scattered over the whole State. Their origins did not materially differ from those of the Saranjams with the result that the British treated them under the same rules called the Saranjam Rules.

2. *Historical background.*

It is not necessary to trace the history of the families, who held the saranjams or dilate upon their vicissitudes. For detailed history, the reader is referred to Grant Duff's "History of the Mahrathas". For our purpose, it is important to know how they were treated by the British on accession to power. It is well-known that the Hon'ble the Commissioner Mountstuart Elphinstone first submitted to the Governor General on the 18th June 1818 his "general review of the measures adopted for the settlement of the Peshwa's late country" and "suggestions on the plans which seemed best suited to completion of that object". One of the most important subjects discussed was about the suitable method of providing Jahagirdars and Saranjamdars whom the events of the war had deprived of their power and possessions. The method adopted was by permitting them to retain their personal holdings and by pensioning on moderate sums the few not so provided for. Elphinstone even recommended grant of pensions to Ministers of the State, who were reduced to poverty and want by the persecution of Baji Rao. On this general basis, the arrangement with the saranjamdars was proposed. But there were some exceptions like the Patwardhan Chiefs, Apa Desai, the Pant Sachiva and others in both the Deccan and Southern Maratha Country, whose possessions were

subsequently fixed on different principles. They formed a special class being protected by treaties. Theirs were called the treaty saranjams. We are, however, not concerned here with this class but with a class of grants which were not covered by any treaties and were called non-treaty Saranjams. It should be remembered that Elphinstone's arrangement was against any permanent alienation of land revenue. The pith and substance of the arrangement was the "convenience of Government and the accommodation of the Jahagirdars."

Accordingly, the lists of the Saranjams were prepared on the following principles. All Saranjamdars were left in possession of their lands except such as were granted as late as Baji Rao's time to whom pensions (cash) were assigned. All Jahagirs held by ancient and great families were treated as hereditary. Mr. Elphinstone recognised two classes of Saranjamdars:

- (1) those of the Moghul Emperors and the Rajas of Satara whose land-grants were treated as hereditary; and
- (2) those of the Peshwa who were entitled to hold their lands for one generation or more.

The object of these principles was to consolidate the Jahagirs and rehabilitate the Saranjamdars, who were faced with new political and social conditions in their life. The proposals were accepted by the Government of India in 1820. In 1832, Mr. John Warden, the Deputy Agent for the Sardars pointed out the need for uniformity of practice in dealing with the class of Saranjamdars. For this purpose, lists of Saranjams were prepared more than once; because the first lists prepared included saranjams which were spurious. After much scrutiny and correspondence, the lists were finally prepared in 1847, which were approved by the Board of Directors. But as serious errors were detected, they were forwarded to the Inam Commission (1852) for proper scrutiny. This work was done very ably by Col. Etheridge, the then Alienation Settlement Officer in 1874. The lists of Saranjams prepared by him were finally approved by Government.

On this basis, the printed Saranjam List was prepared by Government in 1900. Column 6 of the List describes various items constituting the saranjams, viz.,

1. Entire villages.
2. Half villages or some such fractions.
3. Mokasa amal of entire villages.
4. Mokasa amals of specific lands.
5. Babati amal.
6. Moglai Amal.
7. Fouzdari Amal.
8. Sardeshmukhi Amal.
9. Sahotra Amal.
10. Government amal.
11. Kasar.
12. Amals in dunala villages.
13. Jaghir amals.
14. Nimchauthai (1/8th share), etc.

It would appear from the list that, generally, the saranjams were grants of public revenue, which might be of the entire revenue of the village or a portion thereof. The fractions were described by the terms "amals" or "babtis" which meant a share or a portion of the revenue after deducting the expenses of collection.

3. *The Saranjam Rules of 1898.*

The law relating to the Saranjams was that they were to be inherited according to the rules laid down by Government. The power to make rules was expressly reserved by Government. The Act XI of 1852 after providing for rules for adjudicating upon title to exemption from payment of land revenue provided in Rule 10, Schedule B, as under:—

"These rules shall not be applicable to Jahagir, Saranjam and other political tenure for service of Government or tenures of political nature, the title and continuance of which shall be determined as heretofore under such rules as Government may find it necessary to issue from time to time." The settlement of the saranjams and other political inams was expressly excluded from the operation of the Summary Settlement Acts II and VII of 1863. It was for Government to determine how saranjams were to be held and inherited and if Civil Courts had jurisdiction over claims relating to the Saranjams, they

were bound to determine such claims according to the Rules framed by Government (1.L.R. 6 Bom. 598 and 5 Bom. L.R. 983). In exercise of those powers, Government issued Saranjam Rules, which re-enacted the customary incidents of the saranjam grant (1.L.R. 50 Bom. 193 at p. 201). Those rules were determinative of the rights of the Saranjamdars on all matters with which they dealt (23 Bom. L.R. 321).

For facility of reference the Saranjam Rules of 1898 are reproduced below:—

SARANJAM RULES (1898)

In exercise of powers referred to in rule 10 of Schedule B of Act XI of 1852 and of the second sub-clause to clause 3 of section 2 of Bombay Act VII of 1863, His Excellency the Governor in Council is pleased to issue the following rules for the purpose of determining the terms to which the continuance of *jaghirs* and *saranjams* and other alienations of a political nature shall be subject:—

(1) *Saranjams* shall be ordinarily continued in accordance with the decision already passed or which may hereafter be passed by Provincial Government in each case.

(2) A Saranjam which has been decided to be hereditarily continuable shall ordinarily descend to the eldest male representative in the order of primogeniture, of the senior branch of the family descended from the first British grantee or any of his brothers who were undivided in interest. But Provincial Government reserve to themselves the rights for sufficient reasons to direct the continuance of the saranjam to any other member of the said family, or as an act of grace, to a person adopted into the same family with the sanction of Provincial Government. When a saranjam is thus continued to an adopted son, he shall be liable to pay to Provincial Government a *nazarana* not exceeding one year's value of the *saranjam*, and it shall be levied from him in such instalments as Provincial Government may in each case direct.

(3) In the case of *saranjams* which have been decided to be continuable for two generations with a pension to the third, the eldest surviving son shall be considered to represent a generation and the entire *saranjam* shall descend to him when he

represents the second generation from the first British grantee and a pension when he represents the third. But if the elder son or sons of the British grantee have died before their father but leave sons, the grandson who ranks first in the order of primogeniture shall, on his grand-father's death, be regarded as the second generation, and the entire *saranjam* shall be continued to him, no pension being granted to the third generation.

(4) Proposed orders regarding successions to *saranjams* in accordance with the above rules must, as they constitute a technical re-grant of the *saranjam*, be submitted in all cases for the sanction of Provincial Government.

(5) Every *saranjam* shall be held as a life estate. It shall be formally resumed on the death of the holder, and in cases in which it is capable of further continuance, it shall be made over to the next holder as a fresh grant from Provincial Government, unencumbered by any debts or charges save such as may be specially imposed by Provincial Government itself.

(5A) In cases in which there is no suitable person to whom a regrant can immediately be made, or in which an immediate re-grant would be injurious to the interests of the estate, the *saranjam*, may be attached and placed under Government management for such period as Provincial Government may consider necessary; and the revenue of the *saranjam*, after deduction of the expenses of management, may be assigned for the maintenance of the representatives of the deceased *saranjamdar*, in such manner and in such proportion as Provincial Government may from time to time direct.

(6) No *saranjam* can be capable of sub-division.

(7) Every *saranjamdar* shall be responsible for making a suitable provision for the maintenance of the widow or widows of the preceding *saranjamdar*, his own brothers, or any other member of his family who, having a valid claim arising from infancy, mental or physical deformity rendering such member incapable of earning a livelihood, may be deemed deserving of support at his hands. When this obligation is not fulfilled by any *saranjamdar*, Provincial Government may direct him to make suitable provision for such person and may fix the amount, which he shall pay in each instance; provided that no one who

has independent means of his own, or is, in the opinion of Provincial Government, otherwise sufficiently provided for, shall be entitled to maintenance from the *Saranjamdar*.

(8) Every order passed by Provincial Government under the above rule for the grant of maintenance by a *saranjamdar* shall hold good during his life only.

(9) If an order passed by Provincial Government under rule 7 is not carried out, Provincial Government may, whatever the reason may be, direct the *saranjam* or a portion of it, to be resumed, as the circumstances of the case may require. Provision for the members of the *saranjamdar*'s family entitled to maintenance shall then be made by Provincial Government out of the revenues of the *saranjam* so resumed.

(10) Whenever it appears that *saranjam* or its revenues have passed by attachment or any other process of the Civil Court into the hands of a person other than the *saranjamdar*, Provincial Government will ordinarily direct the *saranjam* to be resumed and pass such orders as to its re-grant or other disposal as may seem to them fitting.

(11) The above rules shall be applicable not only to *saranjams* proper, but also to *Chauth saranjams*.

(12) Any inam granted on political considerations shall be continued in the terms of the *sanad* or order creating the grant. In the event of any such inam passing out of the possession of the family for whose support it was granted, it shall be liable to resumption unless there be an express provision permitting such transfer in the terms of the grant.

Saranjams, which were not guaranteed by the treaties with the British were called non-treaty saranjams. They were originally granted by the former Governments mainly to officers in military service. They were sub-divided as under:—

- (1) Personal or Jat saranjams—granted for personal dignity.
- (2) Military or Fouj saranjams—granted for maintenance of troops, etc.
- (3) Chauth or one-fourth saranjams granted by the Marathas to their military officers for personal dignity from

chauth or one-fourth of the revenue of a village situated in the Moghul territory over which the Marathas established their rule.

The Military saranjams of class (2) above had been resumed by the British; but those at (1) and (3) were continued by them (British) on the following principles:—

(1) All saranjams granted prior to 1751 or held in commutation of anything so granted were continued hereditarily. The year 1751 was taken as the commencement of the sovereignty of the Peshwas.

(2) Saranjams granted between 1751 and 1796 were continued to the holder at the introduction of the British rule and for one generation further with a pension of half the net proceeds of the saranjams to the third generation.

(3) Those granted after 1796 (i.e. by the last Peshwa Baji Rao II) were continued to the holder at the introduction of the British rule with a pension of half the net proceeds to the next generation.

4. *Statistical data.*

According to the Saranjam List prepared in 1900, the position of these saranjams was as under:—

Class.	Number.
(1)	104
(2)	Nil
(3)	10
	<hr/>
Total	114

The position about the non-treaty saranjams and political inams immediately before the resumption was as under:—

(a) The number of non-treaty saranjams of class I (hereditary) was 96; Saranjams of class II was non-existent and those of class III (for one life only) were 4 in number. The aggregate amounts of land revenue alienated in respect of the Saranjams of classes I and III were estimated at Rs. 2,49,899 and Rs. 101-11-0, respectively.

(b) There were 277 entire Saranjam villages* in different districts. Besides, there were parcels of Saranjam lands ad-measuring 23,596 acres assessed at Rs. 32,259 and paying judi of Rs. 175 scattered over 138 villages in different districts.

(c) As regards the political† inams, there were 1,44,455 acres assessed at Rs. 81,538 and paying judi of Rs. 4,954 (Rs. 76,584 annual nuksan to Government).

(d) As regards the political pensions, there were 4 classes as under :—

	Amount Rs.
Class I (permanent)	80
Class II (hereditary)	90,266
Class III and IV (for life only)	10,357
Total	1,00,703

The above information is tabulated below :—

	Area in acres.	Assess- ment.	Judi	Nuksan	Cash allowances
	Rs.	Rs.	Rs.	Rs.	Rs.
Saranjams ...	3,00,978	2,95,679	54,113	2,41,566	29,189
Political inams ...	1,44,455	81,538	4,954	76,584	1,00,703‡
Total ...	4,45,433	3,77,217	59,067	3,18,150	1,29,892

‡ Rs. 90,346 permanent and hereditary.
Rs. 10,357 for life.

5. *Case for resumption.*

As early as 1948, Government had decided to abolish all inams and watans in the State as a measure of agrarian re-forms. According to the plan of Government, the Saranjam and

*The entire saranjam villages are found in different districts as under :—

Kolaba ...	22	West Khandesh ...	5
Ahmednagar ...	32	East Khandesh ...	31
Satara ...	15	Panch Mahals ...	1
Poona ...	28	Ahmedabad ...	12
Belgaum ...	46	Kaira ...	1
Bijapur ...	28	Sholapur ...	7
Ratnagiri ...	16	Nasik ...	33

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†The political inams are found in Ahmedabad, Kaira, Panch Mahals, Sabar Kantha, Satara North, Poona Nasik, Ahmednagar, Kolaba, West Khandesh, East Khandesh, Sholapur and Ratnagiri.

The statistical data given above cannot boast of mathematical exactitude.

political inams came last to be abolished. Apart from the agrarian reforms policy, there were other important considerations in abolishing this category of the inams. It may be recalled that the abolition of the saranjams and other political inams involved the extinction of a class of landed aristocracy, which was originally maintained for the State purposes by temporary assignments of revenue. Those inams granted by the Moghuls and the Marathas were continued by the British with a view to preserving the ancient historical families without performance of any service. The British perpetuated them as vested interests, as bulwark against any popular movement for political or social progress. After attaining the Independence, these grants became outdated and outlived their utility. Social and political equality is the essence of democracy and it was difficult in the altered political set-up to reconcile such privileges and immunities. Government, therefore, thought of abolishing these grants which were relics of the feudal past.

6. *The Resumption Rules of 1952.*

It may be recalled that the Saranjams and Political grants were governed by the Saranjam Rules of 1898. As pointed out by the Full Bench of the Bombay High Court in *Daulatrao v. Province of Bombay*, (49 Bom. L.R. 270) that the said Rules were rules of convenience only. They did not exhaust the general power of Government or prevent Government from making any decision or determination referable to a particular Saranjam. In the same case, it is observed that "the whole structure of the saranjam tenure is founded in the sovereign right, which can only be changed by conquest or treaty. So founded, Jahagirs or Saranjams, with the feudal incidents connected with them, are granted or withheld at the will or pleasure of the sovereign power, and, if granted, the fixity of the tenure is always subject to interruption or revocation by *resumption*, be it temporary or absolute in character." This decision of the Bombay High Court was consistent with earlier decisions of the said Court and was supported by legislative enactments from earlier times. Section 38 of Bombay Regulation XVII of 1827 provided that land held exempt as jahagir should be liable to resumption and assessment under the general rules *at the pleasure of Government*. This principle was

repeated in the Bombay Regulation VI of 1833 [section 1(3)]. Since the saranjams and political grants were continuable at the pleasure of Government, it was open to Government to resume them. In this background of the law, it was not deemed necessary to undertake a special legislation for resuming these grants. But as they were governed by the Rules, they could be resumed by Government by special Rules framed for the purpose.

Consequently, Government framed the special rules called the Bombay Saranjams, Jahagirs and other Inams of Political nature, Resumption Rules, 1952. They have superseded the Saranjam Rules of 1898. They apply to the saranjam and political inams of the whole State (excluding the merged territories), which have been classed as inam class I in the Land and Cash Alienation Registers and the Saranjam List of 1900. They have been brought into force with effect from the 1st November 1952.

The expression "political inam" has been defined as a grant in saranjam, jahagir or other alienation of political nature which may be either of the following kinds or both:

- (1) grants of a village or a portion thereof, land revenue either in whole or part entered as class I in the Land Alienation Registers kept under section 53 of the Land Revenue Code or in the Saranjam List prepared under the orders of Government,
- (2) a grant of cash allowance entered in the Saranjam List or the Cash Alienation Registers prepared under the Rules framed under the Pensions Act, 1871.

But these allowances do not include a privy purse of a Ruler in respect of which a guarantee or assurance is recognised by Article 363 of the Constitution. If any doubt arises as to the nature of the grant, the question is to be referred to the State Government and its decision shall be final (Rules 3 and 4).

With effect from the 1st November 1952, all these saranjam and political inams have been resumed by Government and all rights legally subsisting on that date have been extinguished. But in the case of political inams which consist of exemption from payment of land revenue only, such exemption shall be extinguished

- (a) with effect from the 1st August 1953, if the amount of such exemption exceeds Rs. 5,000 per year,
- (b) with effect from the 1st August 1955, in all other cases.

This provision has been adopted from the Bombay Personal Inams Abolition Act, 1952 with a view to giving relief (or compensation) to the small saranjamdars and political inamdars in the State. It was necessary for maintaining uniformity in the two measures (Rule 5).

The Rule 6 is very important. All villages and lands, if they were the grants of the soil, have been resumed and now vest in Government free from any rights, tenures, incumbrances or equities created by the holder. But if there is any Kadim inferior holder in possession of lands on payment of annual assessment, he is to continue to hold the land as an occupant on new and impartible tenure.

All inam villages and lands, which consisted of exemption from payment of land revenue have been resumed and vested in Government free from any rights, tenures, incumbrances or equities created by the holder. But if they are in actual possession of the holder or any person holding from him, and, if there is an inferior holder, who pays only assessment, the resumption in the case of such lands is by levy of full assessment only. This means that they are not to be dispossessed of such lands.

The provisions of the rule 6 (1) are far reaching in effects and form the crux of the Rules. Under it, all the soil saranjams have been resumed outright and the saranjamdar is left with neither land nor land revenue. Although out of 100 saranjams, the number of soil saranjams may be about 10 or so; still in view of the absolute resumption of such grants, it is urged that the saranjamdars are hard hit by the absence of any provision either for grant of compensation or lands. The Government stand is perfectly legal; it has resumed what had been originally granted. Consequently, it cannot be challenged in a court of law.*

*Recently, Govt. has ordered that the soil saranjamdars should be regranted certain lands in their actual possession on payment of a nominal occupancy price of three times the assessment of the lands, having regard to their income from other sources subject to the condition that they give pro rata maintenance allowance to their dependants who received such allowances before resumption.

Such is not the position of the land revenue saranjamdars, (whose number is considerable), under the Resumption Rules. They are allowed to retain the lands which are in their actual possession or in possession of persons holding from them: In the result, their domestic economy will not be disturbed.

As regards the forests in the Saranjam villages, in the case of the soil saranjams, saranjamdars are not entitled to the forest trees, as such trees have vested in Government on resumption. In the case of the land revenue saranjamdars, the land not being vested in the saranjamdars, the trees upon the land would not vest in them. They (saranjamdars), therefore, would not be considered as being in actual possession of the land on which the forest trees are growing. As a result, the provisions of rule 6(2)(a) are not attracted and the saranjamdars are not entitled to the forest trees.*

If the inam consists of a cash allowance, the holder is entitled to get compensation equal to seven or three times the annual amount of such allowance, according as the allowance was recognised hereditary or for the life time of the holder. This payment is to be deemed in full settlement of his claim to the inam. It is made clear that the compensation provided in the case of these cash allowances is by way of grace only (Rules 7, 8 and 9). The Rules have been revised in order to provide for payment of compensation in transferable bonds bearing interest at 3% and redeemable during a period of 20 years in equated annual instalments of principal and interest.

The Saranjam Chauth and other allowances which are chargeable to the Central revenues are not covered by these Rules. They are continuable as hithertofore until the Government of India decides upon their abolition.

The Rules have been published in the Bombay Government Gazette (Part IV) dated 17th September 1952. By issuing the Resumption Rules, Government completed its programme of abolishing inams and watans in the Bombay State excluding the merged areas.

7. *Effects of the Rules.*

The consequences of the Rules may be classified into financial, administrative and social.

It may be recalled that in the case of the Saranjam estates, there was a presumption that the grant was of the royal share of the revenue only. But the decision in the Hebli Saranjam case (Secretary of State v. Laxmibai, 25 Bom. L.R. 527) has done away with this presumption. The present law is that there is no presumption either way and the nature of the grant (whether of royal share of revenue only or of the soil) is to be determined according to the facts of each case. Under the Resumption Rules, Government has resumed what it originally granted i.e. in the case of grant of revenue only, the resumption of the inam has been made by levy of full assessment (I.L.R. 41 Bom. 408) and in the case of the grant of soil, it is by taking actual possession of the land (I.L.R. 47 Bom. 327).

In the above background, the compensation payable has to be decided by reference to the nature of the original grant. Secondly, all saranjam grants were life-grants under rule 5 of the Saranjam Rules, although they were generally regranted to the successors of the deceased Saranjamdars.

The holders of inams consisting of exemption from payment of land revenue only are not entitled to any compensation, except that they will get the benefit of the concession of that amount upto 1-8-1953 and 1-8-1955 according as the amounts of exemption are over Rs. 5,000 or less, respectively. The Rules will come into force completely with effect from 1-8-1955.

Government will get Rs. 4½ lakhs as an additional land revenue, which was enjoyed formerly by the Inamdars as nuksan. Further, Government will not have to pay cash allowances amounting to Rs. 1,29,892 per year. But this will only be a negative gain.

As most of the villages and lands are surveyed and settled, Government has not to incur any expenditure on this account. The financial implications may be broadly stated as follows:—

Receipts.		Expenditure	
Recurring.	Non-recurring.	Recurring	Non-recurring.
Rs. 4,50,000 (net additional revenue)	Rs. 8 lakhs (compensation for cash allowances.)

After payment of compensation, the increase of land revenue is estimated of the order of Rs. 4½ lakhs per annum. It should be clearly understood that the compensation is not to be paid in cash but in transferable bonds redeemable during a period of 20 years in equated annual instalments of principal and interest and carrying interest at 3%. As a result, the payment of the compensation is to be spread over 20 years and not to be paid in lump.

From the administrative point of view, no change is required to be made in the administrative structure of the villages. Before the resumption of the inams, there existed a village administration, in these villages consisting of a talati, a patil and inferior village servants paid out of the village revenues. The Saranjamdars were paid the revenues after deducting the amount of village expense called chillar.* As a result, Government has after resumption, not to make any administrative arrangements. It is true that in some unsurveyed and unsettled inam villages, Government will have to introduce survey and settlement and the Record of Rights. This will entail additional expenditure on Government which could, however, be spread over years. But the cost of these operations will not be considerable.

However, the social and economic consequences of the resumption are likely to be tremendous. Many historical families have banked upon the income from these inams for their maintenance. Incentive for hard work or, say, any work was sadly lacking in several cases. Saranjams and political inams were

*Wilson defines "chillar" as sundry or petty expenses or deductions from the revenue allowed for village expenses and for the contingent expenses of the native revenue servants.

considered as good security for obtaining credit. And as debt followed credit, the inamdars sank deeper and deeper in debt without any hope of extricating themselves from the clutches of the shaukars. The resumption of the inams has opened the eyes of the smug and self-complacent saranjamdars to the stark realities of life around them. In the interest of social justice, it was necessary that they should be awakened from their slumber of generations and made to work and earn their bread with the sweat of their brow. It is hoped that they will direct their energies to greater effort and play their part in the society. It was also necessary for creating a classless society that those inams should be resumed by Government.

CHAPTER IV

THE PERSONAL INAMS

1. *Introduction.*

If there were any inams which were most extensive in area and spread over the whole State, they were the grants called 'jat' or personal inams. The expression 'Jat' means personal and indicates broadly the origin of such grants, which lay in the personal qualities and the services rendered by the original grantees. Generally, such grants were made in appreciation of the services rendered by persons to Government in diverse circumstances of trying character. In uncertain political conditions prevailing in the country in the beginning of the nineteenth century, the British Government wanted a loyal class of society which would support the new government and would be helpful in stabilizing the administration at all levels. Such a class was already in existence before the advent of the British and baited in the net by them (the British) by recognising the existing alienations which were more often than not defective in title. In short, the genesis of the personal inams lay in the political and administrative exigencies of the government of the day.

The inams consisted of entire villages, lands, amals (shares of village revenues) and cash allowances. They were further divided as under:—

- I. permanent or enfranchised private property,
- II. hereditary,
- III. for more lives than one,
- IV. for one life only, and
- V. those which could not be covered by the above categories (miscellaneous).

This classification was adopted in recording them in the Land and Cash Alienation Registers prepared during the British regime in the eighties of the last century.

This class of inams comprised a vast body of holdings and cash allowances which though alienated by the former Govern-

ments under various denominations, had been continued by the British without any distinguishing peculiarity under the omnibus class "personal inams" or unconditional grants enjoyed by individuals. It covered personal inams adjudicated by the Inam Commission and the Summary Settlement Acts of 1863. Besides, there were general grants outside the scope of these Acts such as inams to the Kalavantis in Satara, nakru lands to the Maleks in the Thasra taluka of the Kaira district and the talukdari wantas in Gujarat. Further, exchanges of properties of one village for properties of another were also treated as personal inams. Compensation granted under Acts XXVII of 1837, Act I of 1838, etc., for abkari rights, salt rights, transit duty rights and kothli santh and annuities like varshasans and Hardas bidagi came under this category. Grants made for maintenance of some families like Oze, Rode, Jog and the Nawab of Surat were treated as personal inams. Some Girasias of Gujarat were granted cash allowances known as Toda Giras, which were in the nature of a blackmail and were treated under this class. Further, inams were also granted in appreciation of good and meritorious services to the State, viz., bravery in capturing a dacoit, erecting a dam across a river, inquiry into and impartial settlement of alienations, etc. In consequence of many political treaties with the native chiefs such as Nizam, Scindhia, Holkar and Gackwar, several inams were continued in the British territory. Certain village servants were found to have outlived their usefulness in the new British set-up and were pensioned off by grant of inams. In this background, it will be clear that the inams were of a motley character and were placed under the omnibus class—personal inams—presumably because they were all treated as private and heritable property of the holders in consequence of settlement made by the British.

2. *Historical background.*

Before various categories of this inam are dwelt upon, it is necessary to briefly pass in review the history of their settlement by the British. In the first half of the nineteenth century, the British noticed that there were many fraudulent and surreptitious claims put forth in respect of grants consisting of villages, lands and allowances. During the first 23 years

(1818-1841), the enormous extent of the alienations was not realized by the British. The Collectors and the judges of the courts were left to deal with such questions on their own authority with the result that their decisions were found to be conflicting, "varying from harshness to tenderness in the treatment of such claims in accordance with individual opinion". The British were shocked at the extensive nature of such alienations. Government, therefore, thought it expedient to inquire into and settle all such claims as early as possible. To this end, the British appointed, in 1843, the Bombay Inam Committee, as an experimental measure, for inquiry into the claims to alienated revenue in the Deccan and Southern Maratha Country. The inquiry under the Committee was carried on for nine years till 1852, when it was transformed into a Commission and its proceedings were given a legal status by the Act XI of 1852 (The Titles to Rent-free Estates Act). The Inam Commissioners called for evidence and passed decisions in each case, either for resumption or the continuance of inams consisting of villages, lands and amals in accordance with the rules in Schedule B of the aforesaid Act. The decisions were communicated to claimants in each case and were treated as sanads.

The inquiries by the Commission created much dissatisfaction and unrest among the holders, most of whom were enjoying exemptions without any legitimate title. This coincided with the War of Independence of 1857. Although this war was crushed, the British were forced to adopt a policy of appeasement and rapprochement towards the Indian ryots.

Besides, the methods and machinery of the Commission were found to be slow and cumbrous. Government therefore abolished the Commission in 1861 and passed the Bombay Acts II and VII of 1863. They were called the "Summary Settlement Acts", because they aimed at summary settlement of the claims. It may be noted that these Acts dealt with villages, lands and amals and not with cash allowances. The main principles underlying these Acts were:—

- (a) conversion into transferable freehold of all personal inams whether adjudicated by the Inam Commission or not, and

- (b) imposition of quit-rent or nazarana upon such lands on account of such conversion.

The Act II applied to the "New Provinces" of the Deccan and the Southern Maratha Country and Act VII to the "Old Provinces" of Gujarat and the Konkan (Thana, Ratnagiri and Kolaba).

- (c) The amount of quit-rent was to be
- (i) under Act II, 4 annas for every rupee of full assessment plus a nazarana equal to an additional one anna in a rupee; and
 - (ii) under Act VII, 2 annas in a rupee without nazarana.

Under these Acts, exemptions from land revenue were recognised without inquiry into the right of such exemptions. In effect, the Acts conferred on the Inamdar the right to hold land without payment of full assessment but subject to the payment of quit-rent as set forth above.

But these Acts of 1863 excluded from their operation the class of "Terminable Inams" i.e. those which had been adjudicated to be not continuable hereditarily but only for one life or a few lives. In order to enfranchise these inams, Government passed special orders in 1864*. This was called "Terminable Inam Settlement". Its terms were as follows:—

- (1) Holders of inams continuable for *one life* had to pay two-thirds of the assessment.
- (2) Holders of inams continuable for *two* lives had to pay half the assessment.
- (3) Holders of inams adjudicated as continuable for *three* lives had to pay one-third assessment.

It may be noted that the inams which had already expired were not revived and that no relief was given if the inam had been granted for the life of the incumbent only. Grants by the British Government were also treated under this settlement. The terms of the commutation were based upon the state of the holding at the time of the settlement and not upon its condition at the date of the decision by the Inam Commission or grant.

*G.R., R. D. No. 2900 dated 14th August 1864.

Government offered the above terms by way of summary settlement of their claims to land, land revenue, and cash allowances without inquiry. Those, who accepted the terms were declared to be the Inamdars with private, heritable and transferable rights in the lands. Regular inquiry was held under the provisions of the Summary Settlement Acts in the case of only those who demanded regular inquiry. The judicance fixed was not liable to increase or decrease under rule 4 of section 2 of Act II of 1863 and rule 4 of section 6 of Act VII of 1863.

The inams in which it was necessary to watch the succession were termed "starred" inams and the remainder "unstarred".*

The Pensions Act, 1871 and the Rules thereunder were applicable to the Government grants of money or land revenue both in Government and inam villages. The Summary Settlement Acts did not relate to cash alienations, except AMALS or shares in the revenue of village, which fell under the definition of land as given in section 16(b) of Act II and section 32(b) of Act VII of 1863. The following were the instances of cash allowances other than AMALS:—

1. varshasan,
2. compensations,
3. compassionate allowances,
4. abkari rights, and
5. gadkari allowances.

Incidents of Inam.

In this historical background, it is proposed to discuss the personal inams with reference to the terms of each sanad granted by the British Government. This is absolutely necessary in order to understand the rights of the Inamdars. A reference is requested to Appendix B of the Alienation Manual at pp. 34-246 of the Appendix which give a hundred forms of sanads granted in respect of these Inams. A scrutiny of these sanads reveals the following common incidents of the inams:—

*G.R., R. D. No. 6409 dated 10-7-1914.

- (1) The inams were of lands, villages, amals and cash allowances.
- (2) The judi payable was decided to be in perpetuity and normally was not liable to variation at the time of revision settlement.
- (3) The inams were decided to be private, enfranchised property of the holder on payment of judi or a sum fixed by Government.
- (4) Excepting a few cases, alienations of a portion of the inam (either in land or cash) were not prohibited.
- (5) The holders had to remain loyal to the British Government.
- (6) The Kadim inam lands and Kadim cash allowances were to be respected by the grantees, i.e. inamdars*.
- (7) Creation of Jadid-inams by the inamdars was prohibited.†
- (8) Rights to mines and minerals were conceded, except in a few cases where they were expressly reserved by Government.

For facility of reference, the inams dealt with under various articles of the Alienation Manual are classed into 10 categories and discussed seriatim below:—

- (1) Inam settled under Act XI of 1852 and Acts II and VII of 1863:—

- (a) Terminable Inam Settlement (Sanads Nos. 1 to 5).

The sanads Nos. 1 to 5 cover the inams under the Terminable Inam Settlement. The inams were decided to be private property on payment of one-half or two-thirds of the annual value as judi.

- (b) Useless and obsolete village servants (Sanad 6).

The inams of village servants declared useful to the community by the Inam Commission but subsequently found to be

*The "Kadim inam" means inam in the village granted by Government prior to the grant of that village to an inamdar.

†"Jadid-inam" means inam granted by the inamdar of a village after that had been granted to him by Government.

useless were converted into private transferable property on payment of 3 annas judi.

- (c) Inam settled under Acts II and VII of 1863. (Sanads Nos. 7 to 24).

The inams under the Act II were subjected to quit-rent of 4 annas in a rupee, and nazarana of one anna on succession or transfer, as already described. Those under the Act VII were subjected to a judi of 2 annas in a rupee without nazarana. Certain lands on the Narwa tenure in the Kaira district and certain city surveyed lands in Ahmedabad and Broach were declared to be private property on payment of 2 annas judi.

- (2) *Outside the scope of the Summary Settlement Acts:—*
(Sanads Nos. 26 to 35)

Under this head come inams of different kinds such as:—

- (a) hali Waola and Kacha lands in Chikhali (district Surat),
- (b) kalavantin inams in Satara granted by the Peshwas,
- (c) maleki nakru lands in the Thasra Taluka (district Kaira),
- (d) lands on Palnuk tenure prevailing in the Haveli taluka (district Poona) under which certain Brahmins and village officers enjoyed lands at reduced assessment under the name PAI.NUK.
- (e) certain personal inam lands without condition of service in the Panch Mahals district and
- (f) grants to holders of Dharmadaya inams.

The above inams were subject to judi of 2 or 4 inams except in the case of maleki nakru lands in the Thasra taluka. It may be recalled that the Bombay Maleki Tenure Abolition Act, 1949 did not affect the maleki nakru lands, as they had been treated as personal inams.

Sanad 34 relates to the grant to the Vakil of the Gaekwar, of the villages Waoli, Wadoli and Chitalsar in the old Salsette taluka.

- (3) *Exchanges:* (Sanads Nos. 36 to 38 and 94 and 95).

The Gaekwar transferred two villages of Bhurrey and Kalose of the Poona district to the British, who gave in exchange

the village of Dewur, taluka Chandore district Ahemednagar (now in Nasik district). At the request of the Gaekwar, Dewur was entered in the name of his Minister, Narayanrao Bhau Saheb Sindhia as perpetual inam. Further, the lands of the "Bet Baug" near the Sangam in Poona were converted into the freehold property on payment of thirty times the assessment. Besides, the Mirasi holders of Government land in Bhusawal (Khandesh) were made responsible to the inamdar for payment of land revenue on certain miras lands in the village, which were taken up by Government for a public purpose (Sanad 38).

One Hari Anant Joshi of Alibag taluka (district Kolaba) was granted a cash allowance of Rs. 41 in commutation of the right to collect assessment in kind in respect of certain lands in that taluka (Sanad 94).

In consideration of the willing transfer of the Mogal Sarai at Surat by the descendants of Hakikat Khan, a "pension" of Rs. 20 was granted to his survivors (Sanad 95).

(4) *Provision for families:*

(Sanads Nos. 39 to 43, 96, 97 and 98).

Special grants were made to provide for the families of persons deceased under special circumstances:

- (a) Ganesh Pant Sadashiv Oze was granted three villages of Nandgaon, Kushiqli and Shirdhan, taluka Panvel, district Kolaba, for good services during the mutiny (1857-58). Similarly, Govindrao Pandurang Rode, Minister of Gaekwar, was granted the Silod village, taluka Nadiad, district Kaira, yielding an annual revenue of Rs. 3,000; but the rights to minerals, etc., were not conceded to the Inamdar.

For good services to Government, lands in Kelshi and Utamber, taluka Dapoli, were granted, but the rights to mines and minerals were reserved by Government (Sanad 41). Similarly, lands in the Dudhgaon village, (taluka Valva, district Satara), were granted by Government.

The Nawab of Surat was granted in 1800 stipends of Rs. 24,000 and Rs. 6,000 per annum in exchange of his Jaghir (Sanad 96).

The Gadkari allowance granted in Belgaum by the Peshwas was continued by the British (Sanad 97). As stated before, the Toda Giras allowance was a political allowance smacking of blackmail in Gujarat. The British Government continued the same for the peace of the country in order that the ryots might be saved from the depredations of the Girassias. The allowances were governed by the Toda Giras Allowances Act of 1887.

(5) *Rewards*: (Sanads Nos. 44 to 67, 99 and 100).

The rewards in lands, villages and cash allowances were given for various purposes, viz:—

- (1) for capturing a notorious bandit (Sanad 44);
- (2) for erecting a dam across the Banganga river (Paranali village, Sanad 46);
- (3) for services in mutiny (Sanad 48);
- (4) for meritorious services to the State (Sanads 49, 51, 54, 55, 56, 57, etc.);
- (5) for good services as Mamlatdar of Salsette (Sanad 53);
- (6) for defending the fort of Dohad in mutiny (Sanad 64);
- (7) for faithful inquiry into the varshasan allowances (Sanad 99).

The conditions attached to them were more or less the same.

(6) *Treaties with Native Chiefs*:

(Sanads Nos. 68 to 71).

In consequence of the treaties with the Nizam, Scindhia and Holkar, certain lands and villages were exchanged between these States and the British. The holders of the lands in the British territory were subjected to judi (called Istimrar) and their holdings were decided to be private transferable property.

(7) *Village servants useless to Government and community*: (Sanads Nos. 75 to 77).

This class consisted of those servants whose offices in the new set-up had become obsolete, such as Potdar, who besides being a village silversmith, used to assay all the money paid either to Government or to individuals. In the "Old Provinces", full survey assessment was levied and in the "New Pro-

vinces'', an assessment of half the full survey rates was taken. Further, the services of Gadkaris, who were fort-keepers, were not required by the British. Their service inams were, therefore, converted into private property on payment of 8 anna judi to Government. The whole Gadkari inam was resumed, if a part thereof was alienated.

The personal inams in the Kanara district assigned for servants useful to the Muslim community were converted into private property.

(8) *Compensations:*

(Sanads Nos. 78 to 86, 89 to 93).

Compensation was granted for a variety of reasons, viz.:

- (1) abolition of salt duty (Sanad 78),
- (2) abolition of transit duty, Abkari rights (Sanad 79),
- (3) itlak allowances, i.e., cash allowances in lieu of land (Sanads 81 to 83),
- (4) cash allowance in lieu of customary remission of land revenue (Sanad 84),
- (5) cash allowance in lieu of Moglai Jaghir at Surat (Sanad 85),
- (6) Fuzundaree cash allowance granted in the Panvel taluka, district Kolaba (Sanad 86),
- (7) abkari compensation (Sanad 89), and
- (8) Kothli Santh allowances granted for resumption of land in Gujarat (Sanad 92).

They were all cash allowances granted for abolition or in commutation of certain rights enjoyed by inamdars.

(9) *Annuities:* (Sanads Nos. 87 and 88).

The British Government purchased annuities granted by the previous Governments, i.e., by the Peshwas and granted cash allowances to the lineal male heirs in the male descent of persons specified.

(10) *Categories of inams not covered by the nine categories stated above:*

In this category come mainly the talukdari wanta lands situated in the districts of Ahmedabad, Kaira, Broach and Panch Mahals. These wanta lands were summarily settled and

were subjected to Uddhad Jama. Since they were treated as personal inams, they were excluded from the operation of the Bombay Taluqdari Tenure Abolition Act, 1949.

Rights and responsibilities of Inamdars:

The rights and responsibilities of the holders of inam lands and cash allowances were governed by the terms of their sanads. Their main responsibility was to pay to Government the fixed amount specified in the sanads.

Further, Government granted lands or villages as personal inams subject to the rights and privileges of the existing holders of the inam lands and revenues, i.e., the rights of the Kādim inamdars were not affected. In the sanads, it was normally stipulated that the rights of the Kādim inamdars should be respected. There were also certain Kādim cash allowances such as varshasan, devasthan, deshmukhi and chillar. Those grants were also to be respected by the inamdars of the villages. Sometimes, inamdars created certain grants either of lands or cash after the grant of the village by the British. Such grants were called Jadid grants. For such grants, the inamdar was alone responsible. They were not binding on the Government and hence Government was not responsible for them. When the inam village was resumed, all Jadid inams lapsed, because an inamdar could not create any rights in excess of his own rights.

The inam villages were decided to be private enfranchised property to the holder. So, inamdars sold away certain parcels of lands to the cultivators, who became as good as occupants. There might be tenants, permanent, protected or ordinary. The rights and responsibilities of the inamdar vis-a-vis his tenants as regards rental, trees, tenure, house-sites, etc., were already determined by the Bombay Tenancy and Agricultural Lands Act, 1948.

In the case of the personal inam lands, the rights to mines and minerals did not vest in Government. They vested in the inamdar. The words "Pashan", "Nidhi" and "Nikshep" were used in the sanads granting the villages. But in some grants,

Government had expressly reserved this right to itself as could be seen from sanads Nos. 40 and 41. Such cases were exceptions to the general rule that the rights to mines and minerals in the inam villages vested in the inamdars concerned.

As regards the *forest rights* of inamdars, trees which grew upon the land came within the definition of "land" given in section 3(4) of the Land Revenue Code 1879. The right to cut down or sell trees was incidental to the proprietorship of the soil. It had been held that when the inam lands or villages had been declared to be permanently continuable, the adjudication awarded full proprietary rights in the soil (vide article 139 of Alienation Manual). Sanads should not be construed as conferring a right to the forest unless such a right had been conferred in clear and unambiguous words. In grants conferring the proprietorship of the soil, the words used for conveying the forest rights were "Taru, Trina" and "Kashita" (trees, grass and wood). It was, however, not necessary that the word "forest" should be found in sanads. It would be sufficient for the purpose if sanads showed plainly and unequivocally that the proprietorship of the soil was granted to the inamdar. In short, the forest rights vested in the inamdar, unless they had been expressly reserved by Government in the sanads. Gadkaris had no right to teak or forest.

3. *Statistical data.*

As stated before, these inams were settled by the British and recorded in the Land and Cash Alienation Registers prepared in the eighties of the last century. The Land Alienation Registers were prepared for each taluka under the provisions of section 53 of the Bombay Land Revenue Code, 1879; whereas the Cash Alienation Registers were prepared for each district under the Rules framed under the Pensions Act, 1871. As the inams were decided to be private and transferable property of the holders, many changed hands since their original entries in the Registers. Those Registers showed correctly the amount of exemption enjoyed, or cash allowances received. But unless subsequent mutations were carried out in the Registers, they could not be said to represent or show the correct position about the holders of the inams on the appointed date.

The statistical information divisionwise is given below:—

Namo of Division	Area in acres.	Assess-ment.	Judi	Nuksan	Cash allowance
(1)	(2)	(3)	(4)	(5)	(6)
	Rs.	Rs.	Rs.	Rs.	Rs.
Central Division...	11,98,358	15,11,362	3,88,986	10,10,901	1,20,217
Northern Division	16,54,511	23,91,689	7,20,949	15,47,994	1,81,639
Southern Division	10,31,810	6,37,344	1,71,507	4,65,782	41,107
Total ...	38,84,679	45,40,395	12,81,442	30,24,677	3,42,963

It will appear from the above figures that the inamdars were enjoying annually Rs. 30,24,677* as nuksan from inam lands and Rs. 3,42,963 p.a. on account of cash allowances without performance of any service.

Case for abolition.

From the resume of the sanads given above, it would be clear that these inams were granted in appreciation of good and meritorious services and maintenance of the status of the holders, etc. The holders enjoyed them without any obligation of service either to the State or to the community for more than a century. At the time of introducing the Bill to abolish the personal inams in the Legislative Assembly, the Revenue Minister, Shri Bhau Saheb Hiray put the finger on the nail when he observed that "For various ulterior purposes, people have got their inams described in a manner which does not represent their real nature. It was granted to an individual out of mere favour or the freak of the moment. In many cases—I say many not all—this right is nothing short of a bribe paid by the British Government for acquiescing in foreign domination and for refraining from another mutiny. The cards were well played and the Inamdar class generally continued to be the loyal servants of the British for nearly 80 years after the settlement of the inams under the Acts of 1863..... In sheer justice to the nation, which has attained freedom, all the decaying remnants of feudalism deserve to be wiped out." It was, therefore, considered expedient that the posterity should not be

*Normally, the figures in columns (4) and (5) should tally with those in column (3), but in view of the discrepancies in the returns, they do not exactly tally.

burdened with the obligations, financial and otherwise, which were created by the previous Governments for purposes which no longer survived in the post-Independence era. The Inamdars were no longer needed as a bulwark against any progressive reforms in the State or the Society. Another compelling reason was that our State being a Welfare State required financial wherewithal for many nation-building schemes sponsored by Government. In the administrative background, the Inamdars as a class had outlived their usefulness and had become unnecessary intermediaries between the State and the ryots. Government therefore introduced in 1952 in the autumn session of the Legislature the Bombay Personal Inams Abolition Bill, 1952. During the debate, the members of the Legislature not only welcomed the measure but insisted on abolishing the remaining inams especially in the merged territories.

Before and after the introduction of the Bill in the Legislature, certain objections were urged by a section of Inamdars. Their objections were—

(1) that the subject-matter of the Bill was outside the scope of the State Legislature;

(2) that the abolition of the inam tenure was not in the public interest;

(3) that the provisions of the Bill offended against the fundamental rights in Part III of the Constitution;

(4) that the Bill amounted to the extinction or abolition of grants made or recognised by the former Governments; and

(5) that the Inamdars were not intermediaries at all.

The objections were very ably met by the Minister, on the following lines:—

(1) The State Legislature had power to deal with inams which was a kind of land tenure under Entries Nos. 18 and 45.

(2) The point had been dealt with by the Supreme Court in the Bihar, U.P., and Madhya Pradesh Zamindari cases. (*State of Bihar v. Kameshwar Singh A.I.R. (Supreme Court 1952, p. 252)*). In those cases, it has been held

that it would be a public purpose if the object of the Act was to establish direct contact between tillers of the soil and the Government.

(3) and (4) The inam villages or lands were estates within the meaning of section 3(5) of the Bombay Land Revenue Code, 1879. These estates fell under Article 31A of the Constitution. If any Bill contained provisions for the acquisition of such estates or any rights therein or for the extinguishment or modification of any such rights, such a Bill could not be deemed to be void on the ground that it affected any of the fundamental rights contained in Articles 19(1)(f) and 31 of the Constitution. Further, right to exemption from land revenue was not an indefeasible right or property for extinguishment of which any compensation need be provided (*Maharaj Kunwar Lal Sing v. C.P. and Berar Government* (1944) F.C.R. 284 at p. 294). Levy of full assessment on lands hitherto enjoying partial or total exemption from land revenue was simply an exercise of its right by Government under section 45 of the Land Revenue Code. In the U.P. Zamindari case, the decision in which had been upheld by the Supreme Court, the Allahabad High Court had held that any objection against the exercise of legislative powers nullifying grants made by Government was ill-founded.

(5) The contention might be true in some inam villages where the village land revenue was collected through the Government agency and not by Inamdars themselves. But in practically all inam villages in Gujarat, the Inamdars collected land revenue directly from the cultivators and paid judi to Government. Cases of harassment were not uncommon in those villages. The Inamdars were intermediaries between the tillers of the soil and Government. Even where they were not so as in many Deccan villages, they were doubtless intermediary interests between Government and the ryots. With a few minor amendments, the Bill was passed by both the Houses of the Legislature and on receiving the President's assent as required under the Constitution, has become law and brought into force with effect from the 1st August 1953. Government has framed rules for carrying out the purposes of the Act.

5. *The Bombay Personal Inams Abolition Act, 1952.*

The new Act extends to the inams in the Bombay State excluding the merged territories. The reasons for excluding personal inams of the merged areas from the legislation were that they were not settled under any enactments. It was therefore considered improper to mix up the settled inams of the pre-merger Bombay State with the unsettled ones of the merged areas.

Definitions.

The definition of the expression "personal inam" given in section 2(1)(e) is very important and requires to be properly understood in the context of the British inquiries and records. The definition is divided into two sections, viz., inam consisting of

- (a) a grant of a village, portion of a village, land or partial exemption from the payment of land revenue entered in the Alienation Registers prepared under section 53 of the Land Revenue Code,
- (b) a grant of money or land revenue including anything payable as a cash allowance in respect of any right, privilege, perquisite or office and entered as class I, II, III, IV or V in the Cash Alienation Registers prepared under the Pensions Act, 1871.

As stated before, the personal inams of the two categories were separately recorded in the Land and Cash Alienation Registers prepared by the British. It should be noted that the amals, which were shares of land revenue from villages, were treated as cash allowances and were recorded in the Cash Alienation Registers. But there were certain inams, which consisted of partial or total exemption from payment of land revenue in respect of entire villages or scattered lands, were entered in the Land Alienation Registers and were not treated as cash allowances, although they constituted a share of village revenues. In view of this distinction adopted by the British and acquiesced in by the Inamdars, separate definitions for the inams recorded in the Land and Cash Alienation Registers had to be adopted in the Act. The importance of these definitions will

be realized when we come to discuss later on the provisions regarding compensation payable under the Act.

Although all these inams were inquired and settled under the British, Government thought it expedient to provide for any doubtful case that might arise in implementation of the Act. An Explanation has therefore been added to the definition of the word 'personal inam' which empowers Government to decide such disputed cases.

Section 3 provides for removal of doubt that the Act applies to personal inams only and not to other inams like saranjam, political, devasthan, dharmada, etc., which are dealt with separately by Government.

Section 4 is very important. It extinguishes from the appointed day all personal inams and the rights legally subsisting in regard to them. However, exception has been made in respect of grants which consisted of exemption from the payment of land revenue either wholly or in part. In their case, the exemption of land revenue would be extinguished from the 1st August 1953, if the amount of exemption was or exceeded Rs. 5,000 and from 1st August 1955, in all other cases. This provision was made in response to the clamour of a section to grant relief to small inamdars. The effect of these provisions is that the entire Act has come into force from the appointed day; but in the case of the small inams referred to above, the holders will have to pay full assessment with effect from the 1st August 1955, thereby enjoying the exemption from payment of land revenue for a period of 2 years more. This proviso was necessitated to pacify the inamdars enjoying only exemption of land revenue, as they were not entitled to any compensation under section 17(5) of the Act for extinguishment of such rights.

Liability for payment of land revenue.

Section 5 makes all inam villages and lands liable to the payment of land revenue in accordance with the provisions of the Land Revenue Code. Further, it fixes the responsibility for payment of land revenue on

- (a) inamdars in respect of inam land in their actual possession or in possession of a person holding from them other than inferior holders, and
- (b) inferior holder holding inam land on payment of annual assessment only.

This provision was necessitated, because these inams were treated as private and transferable property of the holder during the British regime. On abolition of the inam tenure, it was necessary that they should be recognised as occupants within the meaning of the Land Revenue Code. The inferior holders referred to in the section would cover the Kadin inamdars, who had to be respected by the Inamdars according to the conditions stipulated in the sanads granted by the British. If any holder of such grants paid only annual assessment, then and then only he would be entitled to the rights of occupancy. The cases of lawful mortgages made by the Inamdars would also be covered by the section.

In the grants of entire villages, the Inamdar held all the lands as his private and heritable property. Section 5 provides for land which will continue as private property of the Inamdar. Section 7 provides for lands which would vest in Government and for the vesting of which an inamdar would be entitled to compensation under section 10. The effects of those provisions would be far-reaching inasmuch as practically all lands required or used for public purposes and waste lands not appropriated by the Inamdars would vest in Government, the Inamdars continuing in possession of land in *their actual possession* or in possession of persons holding from them. These provisions were meant to eliminate the Inamdars from the village economy and administration.

Despite abolition of the inams, the Act provides for continuance of certain rights to the Inamdars, viz.,

- (1) the rights to trees,
- (2) the rights to mines and minerals subsisting on the appointed date transferred or recognised by Government under any contract, grant or law for the time being in force. (sections 8 and 9).

Compensation.

Provisions regarding compensation are found in sections 6, 10 and 17. It will appear therefrom that for abolition of the inam tenure and imposition of full assessment on the inam *lands* and villages held by them, the Inamdars are not entitled to any compensation. In amplification, it may be stated that in the cases of inam grants covered by the definition in section 2(1)(c)(i) consisting of exemption from payment of land revenue, the holders are not entitled to any compensation (Section 17(5)). But in the case of inams consisting of cash allowances and amals covered by the definition in section 2(1)(c)(ii), the holders are entitled to compensation equal to seven times the amount of cash allowance annually payable (section 6).

Certain lands such as all public roads, lanes and paths, etc., all unbuilt village site lands, all waste lands and all uncultivated lands (excluding lands used for building or other non-agricultural purposes), etc. in inam villages have vested in Government (section 7). For extinguishment of any right or interest in any such property, compensation has been provided in section 10 on the analogy of the provisions in the Bombay Taluqdari Tenure Abolition Act, 1949. For abolition of other rights (not specified in sections 7 and 10), compensation is provided in section 17.

Like other Land Tenure Abolition Acts passed by Government, the persons aggrieved have to apply to the Collector of a district for compensation within a period of twelve months from the appointed date. Thereupon, the Collector has to hold a formal inquiry into the claims and has to assess and award compensation to the claimants. Against the Collector's award or decision, there is only one appeal to the Bombay Revenue Tribunal.

The provisions of the Act are not to affect those of the Bombay Tenancy and Agricultural Lands Act, 1948 (section 18).

The Bombay Rent-free Estates Act, 1852, the Summary Settlement Acts II and VII of 1863 and the Pensions Act, 1871 have ceased to apply to these inams. The Toda Giras Allowances Act, 1887 is wholly repealed. Lastly, the sub-section (2) of

section 3 of the Bombay Maleki Tenure Abolition Act, 1949, sub-section (2)(a) of section 5 of the Bombay Taluqdari Tenure Abolition Act, 1949 and sub-section (2) of section 4 of the Panch Mahals Mehwasai Tenure Abolition Act, 1949 have been deleted (section 20).

It is made clear that the enactment of this legislation does not affect

- (a) any obligation or liability already incurred before the appointed date;
- (b) any proceeding in respect of such obligation or liability, or
- (c) anything done in the course of such proceeding in any Court on or before the aforesaid date and any such proceeding is to be continued and disposed of as if this Act had not been passed.

From the foregoing facts, it will be clear that this is the first comprehensive measure enacted by Government which embraces all the districts of the pre-merger Bombay State.

6. *Financial implications.*

On abolition of the tenure, Government will annually gain Rs. 30,24,677 (nuksan) on imposition of full assessment on the inam lands. It will not have to pay cash allowances amounting to Rs. 3,42,963. This is only a negative gain. But Government will have to pay compensation at seven times the amount of cash allowances i.e. Rs. 24,00,741. This expenditure is cancelled out by the annual receipts of additional land revenue of Rs. 30,24,677. Government will however have to pay compensation for the public roads, lanes, waste and uncultivated lands vested in Government under section 7 of the Act. Since the extent of the areas and types of properties so vested in Government cannot be ascertained at this stage, the probable amount of compensation payable on that score cannot be estimated at present. Anyway, the total amount under this head will be substantial, but not as large as has been now estimated for the similar lands under the provisions of the Bombay Taluqdari Tenure Abolition Act, 1949.

7. *Effects of the legislation.*

Many of the consequences of the Act have been detailed while discussing the provisions thereof above. But it is necessary to set forth the administrative, social, and economic consequences of the measure in their proper perspective.

Administratively, the Act has eliminated the unnecessary intermediary—the Inamdar—from the village administration. Now that the Talatis of the adjacent villages have been placed in charge of the inam villages and lands, the ryots have been brought into direct contact with Government.

Many disputes regarding public grounds like playgrounds, cremation grounds, grazing areas, village site lands, etc., have been brought to an end by vesting such lands in Government. Hardly any additional talatis are required to be appointed after abolition of the tenure, as the seza talatis of adjacent villages have been able to manage these villages. However, Government will have to introduce survey and settlement and its concomitant—the Record of Rights—in many unsurveyed and unsettled villages.

Socially and economically, the change will be very great. The Inamdar, who was first and foremost in the society, will no longer be a man of substance and will not be in demand to grace social and religious functions at such villages. While the Inamdar has been levelled down, the suppressed ryots have been levelled up. Except collecting rent, the Inamdars have hitherto shown no other interests in the villages and the people. The result was that there was little of village uplift in the absence of village industries, handicrafts, etc. In short, there was little of capital formation and investment very necessary for rural regeneration. In the altered administrative circumstances, it is hoped that the ryots will begin to look up from their longstanding social stupor and torpor.

In the result, the legislation is the most important and comprehensive one ever enacted by the Bombay State. It affects the superior strata of the society and the largest areas scattered in all the districts of the State. It created interest and agita-

tion next to the Tenancy legislation. It removes a class of society, which lived upon the fruits of the labours of others and which acted as a brake on the political progress of the country. As a result of this enactment, many inamdars, particularly small ones, might find themselves at a loose end. But in a Welfare State, there should be no place for persons who bank upon the toils of others. Inamdars should explore fresh fields for their intellect and energies.

CHAPTER V

THE ANKADIA TENURE

1. *Introduction.*

The ankadia tenure obtained in the former States of Baroda, Idar, Malpur, Balasinor, Lunawada and Deogadh Baria merged in the districts of Baroda, Kaira, Panch Mahals, Sabar Kantha, Ahmedabad, Mehsana and Amreli. The total number of such villages by each State was as under:—

<i>Name of the State</i>	<i>Number of ankadia villages</i>
Baroda	65
Idar	37
Malpur	2
Balasinor	12
Lunawada	19
Deogadh Baria	17
Total	152

The ankadia villages of the former Baroda State were governed by the Baroda Ankadia Village Rules of 1932; whereas those in the remaining States were regulated by leases or pattas granted by the States from time to time.

The villages were called 'Ankadia' and the holder thereof 'Ankadedar', because the holder had to pay to Government a fixed sum called an 'ankada' every year as Government dues. The management of the villages and payment of ankada to Government were the primary functions of the Ankadedars. The Ankadedars belonged to the militant and turbulent classes like Rajputs, Kolis, Thakardas, Kathis, Muslims, Barots, Brahmins, Barias and Charans in the ex-Baroda State; whereas in the remaining States, the Ankadedars came of the Thakarda Koli caste. The castes of the Ankadedars indicate broadly the origin of the tenure as will be noticed later on.

The fundamental fact about the ankadia villages was that they were neither alienated nor jagiri villages. But they were akin to leasehold villages. They belonged to the State concerned and were liable to be resumed by that State in the event of breach of any conditions of the patta or lease or the Rules.

2. *Historical background.*

Now it is proposed to deal with the historical background of the ankadia villages in the Baroda and other States. To begin with, the ankadia tenure in Baroda, which was inquired into and governed by definite Rules of that State, is dealt with below :—

(a) *The Baroda Ankadia villages.*

During the Baroda regime, inquiries into the origin and rights of the ankadedars date back to the year 1892. The data collected by that Government show that the wild tracts lying in the immediate vicinity of the rivers such as the Vatrak, the Mahi, the Sabarmati and the Narbudda in Gujarat were never known to have enjoyed peace or security until the advent of the British. The local chiefs were always at war with each other resulting in perpetual feuds and bloodshed. In the fifteenth century, the early Sultans of Ahmedabad attempted to subjugate the Koli and Mehvasi chiefs; but they were met with such a sturdy resistance from those chiefs, who were naturally helped by the wild nature of their terrain that the former had to make a compromise with the latter, who were allowed to continue in possession of their villages or estates. The Marathas, who succeeded them, continued the old system of levy of tribute (ghasdana) and let the holders alone. They were content with collections of the ghasdana by the help of the Mulkigiri army. This system of revenue administration strengthened the position of the local chiefs, who yielded to the Mulkigiri army only when it could show superior might. "Amidst these wars and revolutions, the evidence of the origin of these estates has been obliterated. . . . To be brief, the origins of the majority of these estates lie so deep under the strata of ancient and almost forgotten history that the former inquiry (1892) has not given us any information on the question and a fresh one is not likely to fare better, and the matter must be decided in the light of our own records, prescriptive title and some legitimate presumptions". This was a cry of despair of Shri G. R. Nimbalkar, Joint Sar Suba of the Barkhali Branch of the Baroda State.*

*Report on the Ankadia villages of Baroda State (1914-15), para 10 of Nimbalkar's Report, p. 4.

Whatever the rights the Ankadedars might have enjoyed before the Gaekwar regime, there seems no doubt about the status accorded to them during the Baroda regime. That Government recovered Ankada from the villages, as and when they fell under the Gaekwar's rule. Originally, the Baroda gadi was at Songadh. It was transferred to Patan in 1766. The Ankadedars of Patan, Harij, Chanasma, Visnagar and Siddhpur began to pay Ankada to that Government from 1781, i.e., 15 years after the conquest of the Mahals. The ankadedars of Padra, Karjan, Savli and Baroda talukas began to pay Ankada from 1771, although Baroda had fallen into the hands of the Gaekwar as far back as 1734. The Kadi district commenced to pay ankada in about 1761. Damnagar in Kathiawar was the last to fall in line in 1809. This march of the territorial conquest by the Gaekwar influenced the recovery of ankada from the holders of the villages.

After 1892, a second attempt was made in 1914-15 to determine the status of the ankadedars. It revealed that the ankadia villages were mainly found in the Kadi Prant (82 villages), Baroda Prant (15) and Amreli Prant (7) and no village in the Navsari Prant. This fact is attributable to the geographical situation of the villages and the warlike and turbulent populace. The existence of the largest number of the ankadia villages in Vijapur, Chanasma, Kheralu, Mehsana and Patan were due to the juxta-position of Chunwal, Mahikantha and Kankrej which were held by turbulent Kolis and Thakardas. The Ankadedars of these villages served as a counterfoil against criminal propensities of their counterparts in Chunwal, Mahikantha and Kankrej. Thus, owing to the political and administrative exigencies, the turbulent chiefs of those villages were recognised as ankadedars by the Gaekwar. In this connection, Mr. Elphinstone has observed that "If the progress of civilization be less rapid on the strong country on the frontiers, it is a satisfaction to reflect that the nature of those fastnesses and the character of their inhabitants are a protection to the peaceful inhabitants of the plains and that they have hitherto afforded an effectual barrier against the hordes of freebooters

who have so long ravaged the neighbouring provinces of Hindustan.'*'

The foregoing facts will clearly show that the origin of the Ankadia tenure was found in the uncertain political administrations of the eighteenth century of Gujarat; when the Government of the day badly needed a person, who could control the village and pay a fixed sum of revenue to Government. Such a person was found in the warlike and turbulent tribes of Rajputs, Kathis, Thakardas, Kolis and Barias. It will be thus clear that the Ankadia system was a necessity of the past administration.

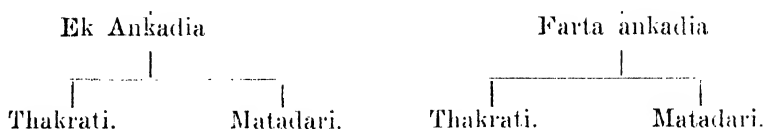
Before the framing of the Rules for the ankadia villages in 1915, there arose a controversy between Mr. Seddon (Settlement Commissioner) and Shri Nimbalkar (Sar Suba) as to the nature of the ankadia tenure. The former compared them to the Talukdari tenure (proprietary), which obtained in the Ahmedabad district; whereas the latter strongly objected to this view and urged that the villages were originally sarkari and were given for revenue management on ijara. Mr. Seddon's theory of the proprietorship of the villages was inconsistent with the restrictions placed by Government on the ankadedars with regard to alienation of lands in those villages from 1851. It was also urged that the Ankadedars had never received the occupancy price (khed hak) from tenants because they were managers and not proprietors of the villages. We will notice later that the restrictions were incorporated in rules 15 and 15-A of the Ankadia Villages Rules of 1915. In short, the status accorded to the Ankadedars and the ankadia villages by those Rules was that of revenue farmers analogous to that of the Mehwasdars.

(b) *The Baroda Ankadia Villages Rules of 1932.*

For the management of the ankadia villages, Government first framed rules in 1915, which were subsequently amended in 1932. According to the rules, the villages were classified as under:—

*Elphinstone : *Memoirs*, p. 555.

Ankadia villages.



At the time of framing the Rules in 1915, there were 104 villages, but they were only 65 at the time of their abolition. The above terms were not defined but were adopted from the old records. They came to be first defined by the Ankadia Villages Rules. Rule 1 related to the definition of those terms but contained no specific definition thereof. But Rule 2 stated that the villages were called 'ek ankadia' or 'farta ankadia' according as the ankada paid was fixed or fluctuating. They were subdivided into thakrati and matadari according to the nature of their holding. Despite this distinction, for all practical purpose, there was no substantial difference between the thakrati and matadari villages under the Rules. It is urged that according to the Huzur Orders of 1934, the holders of the Thakrati villages had a superior status. But they did not recognise that they were proprietors. Thus, the orders of 1934 were not conclusive. Further, the Ankadia Rules were republished in 1949; but no effect was given to the orders of 1934. As a result, the main thesis that there was practically no difference between the Thakrati and Matadari ankadia villages remains unaffected.

Survey and Settlement.

The revenue survey was to be introduced in the villages at the expense of Government for the purposes of original or revision settlements (Rule 4). All the ankadia villages were surveyed but settlement was introduced only in the matadari villages and in 4 thakrati villages (Aglod, Motivas and Sardar-pur in the Vijapur taluka and Dethli in the Chanasma taluka). It may be recalled that the survey and settlement operations were not easy to introduce in those villages. The ankadia villages were surveyed in the maji jarif survey during the regime of H. H. Khanderao Maharaja. But the attempts to survey these villages in the Vijapur taluka in 1898 were strong-

ly objected to by the Thakors and Rajputs, who considered that the survey was an indirect method of changing the tenure of their villages in a manner derogatory to their "proprietary rights". Much misunderstanding was created because the exact nature of the rights and responsibilities of the ankadedars were not defined. After much persuasion, the Thakors of Pilwai yielded; but the Rajputs held out. In that village when the survey operations were started, the survey party, the local police and the revenue officers were mobbed, assaulted and forcibly expelled from the village. The Rajputs set the Baroda authority at naught. After failure of conciliatory efforts, the Sar Suba was compelled to storm the village. The Rajputs, who had assembled in large numbers from several villages armed with guns and weapons, offered resistance. About a dozen Rajputs were killed and a large number was taken prisoner. Many were tried for waging war against Government and were sentenced to imprisonment for life, etc. The village was made khalsa.* This trouble could have been avoided if the exact nature of the ankadia tenure had been determined before. The Pilwai riot of 1898 was the last armed resistance of the ankadedars after they came under the jurisdiction of the Gaekwar. Even thereafter, the problem of introducing these operations in the thakrati villages has proved to be thorny and ticklish. After the merger of the Baroda State in 1948, the problem still persists: many ankadedars of the Baroda and Mehsana districts have filed suits against Government against the introduction of survey and settlement in these villages. These villages have been great snags in the survey and settlement operations.

Ankada.

The amount of the ankada was calculated on the aggregate of the survey assessment of all the lands in the village except the village service and guaranteed giras lands (Rule 5). Generally, the ankada was fixed on the basis of 25% to 75% of the aggregate of the assessment of the village lands. In the ek ankadia matadari villages, it was revised at each succession or at the end of 30 years, if no succession intervened. In the farta ankadia matadari villages, it was liable to be revised at the end of ten years. Hence they were called 'Dasota' rates.

*Gazetteer of the Baroda State, Vol. I, pp. 615-616.

Lastly, in the case of ek ankadia and farta ankadia thakrati villages, it was liable to be revised at the time of the revision settlement. (Rules 6 and 9). Rule 10 prescribed the percentages of ankadas to be raised.

If the holder of a village died without leaving a male heir, the village was not continued in possession of the widow but she was given maintenance allowance upto half the amount that would have been left to the ankadedar after payment of the ankada to Government; but such amount was not to exceed Rs. 100 per month. (Rule 10-A).

We have noticed before that the Baroda Government imposed many restrictions on the ankadedars in the revenue management of the villages. They were embodied in the Rules as under :—

(1) The village was made khalsa in the absence of a male heir (Rule 10-A).

(2) In the event of a failure to pay ankada, the village was liable to be taken over under Government management for recovery of the arrears (Rule 12).

(3) The ankadedar had to appoint and pay for the village servants (Rule 13).

(4) An ankadedar could not sell, mortgage or otherwise alienate the village lands without the previous sanction of Government, and such sanction was accorded by Government in very rare cases, where the capacity of the village to pay ankada was not likely to be jeopardised (Rule 15).

(5) The village was liable to be made khalsa in circumstances set forth in rule 15-A. One significant circumstance was the ankadedar's failure or incapacity to manage the village.

(6) When such a village was resumed by Government, it reverted to Government free from all alienations, encumbrances or charges made by the holder *with* or *without* the previous sanction of Government.

The above restrictions prove to the hilt that the Baroda Government did not recognise the proprietary character of the ankadia villages, as suggested by Mr. Seddon, but they go to

confirm the view of Shri Nimbalkar that they were essentially sarkari villages with the right of revenue management given to the ankadedars. They (ankadedars) collected village revenues, paid to Government the ankada fixed by Government and enjoyed the balance. Besides this right to the surplus revenue, they enjoyed extensive lands called 'gharkhed'. Even they alienated lands as jiwai to their bhayats. All barkhali lands in those villages were treated as jadid under Rule 13(b) and were liable to be resumed on resumption of the village under the Rules. In the result, the main right of the ankadedar was to enjoy or retain the surplus revenue after payment of the ankada and in view of the hereditary management of the village, he held 'gharkhed' lands and could alienate lands for the jiwai of his relatives. Beyond this, they had no rights in the villages, whether thakrati or matadari.

(c) *Ankadia villages of other States.*

Now, we proceed to deal with the ankadia villages of other States, viz., Idar, Malpur in the Sabar Kantha district, Bala-sinor in the Kaira district and Lunawada and Deogadh Baria in the Panch Mahals district. Before dwelling upon the villages of each State separately, one common feature about them all may be pointed out: none of them had been governed by any law or rules; and the basis of fixation of the ankada varied from State to State and sometimes from village to village in each State. The amount of ankada being a variable quantity in each village, the term 'ankada' approximated to the definition given by Wilson in his Glossary of Judicial and Revenue Terms that it was "a total assessment of an estate without reference to the items of which it consists". The arbitrary character of the ankada will be apparent from the manner in which these villages were held. Some villages in the States were held by the headmen on what was called Uddhad, ijara or ankadia tenure. Under the system, the State recovered from the headman a lump sum only for the whole village, while individual collection from the cultivators was made by him (the headman).* The periods and terms of the tenure varied according to the circumstances of each case. Some were hereditary, while others were for specified periods liable to revision or resump-

* The Rewa Kantha Directory, p. 83.

tion. In short, the ankadia tenure was either permanent (hereditary) or periodical. In all, there were 87 ankadia villages in these States.

The reasons for leasing or farming out the villages in those States were not far to seek. Practically, all the villages were situated in the hilly and forest areas on the border-land of the States. Normally, in those days of poor communication and intelligence, they were not easily accessible and the police arm of the States could not be extended to those distant areas. The villages were inhabited by turbulent tribes of Kolis and Naiks, who served as a check on the criminal propensities of their counterparts across the border. In these circumstances, the State found it administratively convenient and financially expedient to farm out such far-flung villages to patels or leaders of the villages. Thus, the State secured cheap collection of land revenue and choki (watch) in those villages.

Although the purpose of the ankadas was the same in all the States, the conditions of the patta or lease varied in different States.

Idar State.

In the Idar State, there are 37* villages. The amounts of the ankadas were not fixed but fluctuated with the village revenues. The ankadedars were all Bhils by caste. Before 1900, some ankadas were for 10 years and some permanent. During 1900-10, however, Sir Pratapsinh, the Maharaja of Idar proposed to abolish the ankadas but had to give up the attempt owing to the strong opposition from the ankadedars. But the ankadas were continued during the pleasure of the State.

The leases of all the villages are not available; but from the leases of Pisal and Kamroda, it was clear that the ankadedars had to help the State by the sword (તમે સરકારને તજવારથી મદદ કરો) Thus, the main purpose of the lease was defence against the marauders from beyond the border of the State. The villages are unsurveyed and unsettled. The ankadedar's remuneration consisted of the revenue surplus after payment of ankada to Government; and gharkhed lands varying from 25 to 40 bighas of land.

* Villages at S. Nos. 1 to 37 of the Second Schedule of the Act.

(d) *The Malpur State.*

There were only two villages Lodhiana Pahadia and Kanela. The ankadas were last given for 30 years from 1946-47.

(e) *The Balasinor State.*

There were 12* ankadia villages. They were called Uddhad Jamabandhi ankada villages. The ankadas were not fixed for a certain number of years; but were continuable permanently until any of the conditions were violated or breached. In addition to the amount of ankada, a few villages like Sharadia, Limbarwada, Bar and Jodhpur had to pay Moslai of Rs. 3/- each i.e. expenses of a person or horseman billeted to the village by the State for collection or recovery of the ankada. The ankadedars had no right to sell or mortgage or otherwise alienate the villages or portions thereof and if any unauthorised alienations were noticed, the villages were resumed without any compensation.

The primary duty of the ankadedars was the police choki, detection of crime, arrest of offenders, collection of land revenue and payment of a fixed sum to Government. For these duties, they were not given any remuneration in cash but were allowed to hold gharkhed lands varying from 15 to 20 bighas as remuneration.

(f) *The Lunawada State.*

There were 19 ankadia villages. The leases dated as far back as the regime of the Scindhias and had been continued or cancelled by the State according to the exigencies of administration. The purposes for which the villages were farmed out could be gleaned from the common conditions of the leases set forth below:—

(1) The ankada was to be paid regularly and in the event of default, the ankada was cancelled.

(2) Any mischievous character was not to be allowed to enter the village.

(3) Trees were not to be cut or allowed to be cut without the permission of the State.

(4) All sorts of Government 'Veth' was to be done.

* The 12 villages are shown at S. Nos. 40 to 51 of the Second Schedule to the Act.

(5) The 'Choki' was to be done in and on the border of the villages and the Ankadedars were held responsible for detection of crime and arrest of criminals.

(6) Lands leased by the State were not to be leased again, mortgaged or otherwise alienated to any one else without the State permission.

(7) Out of the leased lands, if any lands were required by the State for any public purpose, they were to be restored to the State without any objection. Thus, the primary duties of the ankadedars were police choki and payment of ankada.

A few ankadas were permanent and many were for 15 years from 1940. The amounts of the ankada varied from Re. 1 to Rs. 80 per annum.*

(g) *The Deogadh Baria State.*

There were 17† villages on the ankadia tenure. A few ankadas (e.g. for villages of Gollav, Bor, Simalia, etc.,) were permanent and some were for a period of 5 years. The amounts of ankadas varied from Rs. 50 to Rs. 1100 per annum. The main conditions as embodied in the leases were as follows:—

(1) The ankadedar was concerned with the revenue management of the village.

(2) Government decision as to the lands free from payment of assessment was final.

(3) Nobody was entitled to hold lands free from payment more than those decided by the State.

(4) As regards the village servants, the Government decision was final.

(5) Ankadedar was subject to the orders of the State in matters of pasayata lands.

(6) Any land alienated by the State was not to be alienated further without the State permission.

(7) Proprietorship of the lands in the village vested in the State. The occupancy rights (အကျိုးခွင့်) were not granted

*The villages are shown at S. Nos. 66 to 84 in the Second Schedule to the Act.

†Villages at S. Nos. 52 to 65 and 85 to 87 of the Second Schedule to the Act.

to the ryots; but with the permission of the State, the cultivators could transfer lands amongst themselves. The transfers were, however, subject to the orders of the State.

In short, the ankadedar was mainly concerned with the revenue management of the villages. He had to do 'bandobast' at the time of the visit of the Ruler or the Dewan, render help at the time of strikes, etc. As remuneration, he was entitled to the following amounts and lands:—

(1) enjoyment of the surplus after payment of the ankada,

(2) enjoyment of gharkhed lands, and

(3) 'veros'.

From the foregoing account of the ankadia villages, it will be clear that there was a distinguishable difference between the Baroda ankadia villages and those of other States. To begin with, the former were governed by the Baroda Ankadia Villages Rules of 1932, whereas the latter were regulated by the leases or pattas issued by the States concerned. In the former, the principal purpose of the ankada was the revenue management of the village, whereas in the latter police duties predominated. Lastly, the Baroda villages were classified into ek ankadia and farta ankadia villages and subdivided into thakrati and matadari; whereas in the latter, there was no such classification except that some were permanent or periodical.

3. *Statistical data.*

The statistical information about these villages is tabulated below:—

(a) *The Baroda ankadia villages.*

Name of the State.	Number of villages.	Area.	Assessment.	Amount of ankado paid to Government.	Surplus enjoyed by the ankadedar.
(1)	(2)	(3)	(4)	(5)	(6)
			Rs.	Rs.	Rs.
Baroda.	65	2,32,000 bighas.	2,42,800	1,08,800	1,34,000

(b) *Non-Baroda State Villages.*

State.	No. of vill- ages.	Perma- nent (a) or period- ical (b).	Total annual income of the vill- ages.	Total an- kada pay- able to Govt.	Mos- lai.	Veros and other taxes pay- able to the State.	Difference between gross revenue and ankada.
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
			Rs.	Rs.	Rs.	Rs.	Rs.
(a) Balsinor (Kaira).	12	(a) 12 (b) —					
(b) Lunawada D e o g a d h Baria (P a n e h Malaha).	19 17	(a) 25 (b) 11	43,720	12,610	12	4,520	31,100
(c) Idar Malpur (Sabar Kantha).	37 2	(a) 35 (b) 4	plus in- come from un- surveyed villages.				plus the in- come from unsurveyed villages (propor- tionately) plus 7,500 on account of assess- ment of gharkhed lands.
	87						
						Total. Ap- prox.	38,600 40,000

In the case of the Baroda villages, the annual loss to Government was of the order of Rs. 1,34,000; whereas in the case of such villages of other States, the same was to the tune of Rs. 40,000 per annum. Thus, on the whole, Government had to sustain a loss of Rs. 1,74,000 (Rs. 1,34,000 plus Rs. 40,000) on account of the ankadia system. It was a loss without any compensating advantages, either administrative or political.

4. *Case for abolition.*

The ankadia system originated in the past particularly because of the difficulty in collecting land revenue and general management of the villages owing to the distance of villages from the capital of the State, turbulent character of the peo-

ple and their neighbours, forest, hilly and inaccessible terrain and poor means of communication and intelligence. Although their duties consisted of revenue management generally, police duties were not excluded in the States of Idar, Malpur, Balasinor and Lunawada. In the unsettled political conditions of the countryside, the ankada system was found to be the cheapest method of revenue collection and maintenance of law and order.

After the merger and development of means of transport, introduction of the modern administrative machinery in those villages (particularly the appointment of talatis in some villages), and political consolidation of the merged territories, the system became out-moded and antediluvian. The Ankadedars, who filled a distinct role in the village economy during the State regime, lost their *raison d'être* in the progressive administration after merger. The system had become an administrative anachronism, which Government decided to abolish by undertaking legislation.

In pursuance of its policy of abolishing special land tenures, the Revenue Minister introduced the Bill to abolish the Ankadia tenure in the budget-session of 1953. The Legislature welcomed the measure, which was passed without any amendment except the general amendment relating to the transferable bonds.

5. *The Ankadia Tenure Abolition Act, 1953.*

The Bombay Merged Territories (Ankadia Tenure Abolition) Act, 1953 applies to the ankadia villages in the districts of Baroda, Kaira, Panch Mahals, Sabar Kantha, Ahmedabad, Mehsana and Amreli. It has been brought into force with effect from the 15th August 1953.

Definitions.

Section 2 contains definitions of the expressions used in the Act. As there were two distinct categories of the Ankadia villages, viz., (a) those in Baroda governed by the Akadia Village Rules of 1932 and (b) those in Idar, Malpur, Balasinor, Lunawada and Deogadh Baria States regulated by leases or agreements, sub-section (b) defines them separately. In order to

avoid any difficulty in implementing the Act, separate schedules showing the villages of these two categories are appended to the Act.

The term 'ankado' has been defined to mean a lump sum payable annually to Government by an ankadedar out of the revenues realized by him from the ankadia village. For the Baroda State villages, the amount of the ankado will be the sum fixed under the Baroda Ankadia Villages Rules, 1932 and for the villages of the other States referred to above, the amount will be the sum as fixed under the leases or agreement.

The expressions 'gharkhed land' and 'jiwai land' are different names of the general term jiwai land; because the former is for the maintenance of the ankadedar and the latter for the bhayat or cadet of the ankadedar's family. Every ankadedar has got considerable lands under 'gharkhed' i.e. personal cultivation for generations past. There was the custom in the ankadia villages to hold certain lands as 'gharkhed' and grant some lands to the members of the ankadedar's family for maintenance. In the villages of the States other than the Baroda State, the gharkhed lands are as under:—

Assessed

(a) 2706 acres assessed at Rs. 3,488

Unassessed—

(b) 3975 acres i.e. Rs. 4,000 assessment if Re. 1 per acre is taken as assessment.

6681 acres

Rs. 7,488 = Rs. 7,500,

The data for the gharkhed lands in the Baroda villages are not available, but there is no doubt that the extent of the area must be considerable, because gharkhed lands were the mainstay of the ankadedars in the fluctuating policies of the States and the vicissitudes of the seasons. And in the Balasinor State, the gharkhed lands ranging from 15 to 20 bighas was the only remuneration for revenue management of the villages! The definitions of gharkhed and jiwai lands given in the section recognise the position which has been in existence for several generations. In order to decide any dispute about the land whether it is gharkhed or jiwai, Government is empowered to de-

vide it itself or get it decided by any other officer, whose decision shall be final. (Sub-section (4)).

Sections 3 and 4 are the pivotal provisions of the Act. The former abolishes the ankadia tenure with its incidents. All the leases or agreements, which governed the tenure in the non-Baroda State areas are cancelled. All the ankadia villages have been resumed and all lands in those villages are made liable to the payment of land revenue in accordance with the provisions of the Code and Rules thereunder. However, the devasthan and dharmada lands and lands held for service useful to Government are not affected by this provision. Proviso to the section continues the maintenance allowances granted to the widows of the ankadedars on their dying heirless under the provisions of Rule 10-A(2) of the Baroda Ankadia Villages Rules, 1932. As a result, the maintenance allowances sanctioned by the Baroda Government for the life-time of the widows will have to be continued even after the abolition of the tenure. The annual expenditure on this amount is estimated at Rs. 1,100.

Occupancy rights are recognised in respect of the following lands under section 4(1)(A) in the Baroda area:—

- (1) gharkhed lands held by an ankadedar.
- (2) jiwai lands held by the cadets of ankadedars.
- (3) lands in respect of which land revenue or rent was payable by any person as an incident of the ankadia tenure before the Act came into force.

The provisions of sub-section (1)(A) apply to the ankadia villages of the ex-Baroda State only, whereas provisions of sub-section (1)(B) apply to the villages of the Idar, Malpur, Bala-sinor, Lunawada and Deogadh Baria States. Occupancy rights are recognised in respect of lands of two categories only under Section 4(1) (B) in non-Baroda areas, viz.,

- (a) gharkhed lands held by ankadedars,
- (b) lands in respect of which land revenue was payable as an incident of the ankadia tenure and the holder was recorded as an occupier (kabjedar) in the village records.

Except the holders of these categories of lands, other cultivators will continue as tenants under the provisions of the Bombay Tenancy and Agricultural Lands Act, 1948, which has already been applied to the merged areas. The persons recognised as occupants are made liable to pay land revenue direct to Government under the Code and have been freed from the liability for payment of any other amount to the ankadedar as an incident of the ankadia tenure. The provisions of these two sections have completely eliminated the intermediary-ankadedar from the village administration and reduced him to an ordinary landholder of his gharkhed lands in the village. They also have put an end to the levy of cesses other than land revenue which were incidents of the ankadia tenure. Direct responsibility for payment of land revenue to Government has been established in respect of persons referred to in section 4 (1)(A) (iii) and (B)(ii). The gharkhed and jiwaj lands which were held wholly exempt from payment of land revenue have been subjected to the payment of full land revenue under the provisions of the Code and the Rules thereunder.

Section 5 vests in Government all uncultivated and waste lands and all public property of the nature specified in section 37 of the Land Revenue Code. Government has been empowered to dispose of such property for play grounds, cremation grounds, grazing, etc., under section 37 or 38 of the Code. These provisions have been incorporated for removal of doubt, although they are not absolutely necessary because of the khalsa character of the villages.

Compensation.

Sections 6, 7, 8, 9 and 12 provide for method of compensation payable for extinguishment or modification of any rights of the ankadedar or of any other person in the ankadia villages under the Act. If any ankadedar is aggrieved, he has to apply to the Collector for compensation in the prescribed form within six months from the date of enforcement of the Act. The Collector or any other officer authorized by Government has to hold a formal inquiry for assessment and award of compensation to the ankadedar or his co-sharer. However, the amount of compensation is to be three times the average of the amount proved to have been realized annually by the ankadedar as

revenues of his village during the three years immediately before the coming into force of the Act. This proviso limits the amount of compensation to three times the average of the surplus revenue realized by ankadedars during the previous three years. (Section 6).

Section 7 provides for compensation for extinguishment or modification of rights of any person other than the ankadedar. In assessing compensation under sections 6 and 7, the Collector is to be guided by the provisions of sub-section (1) of section 23 and section 24 of the Land Acquisition Act, 1894.

Compensation is payable not in cash but in transferable bonds repayable during a period of 20 years in equated annual instalments of principal and interest and carrying interest at the rate of 3% from that date. The reasons for this change are explained in the Chapter of the Baroda Watan. The different denominations of the bonds have been prescribed under the Rules made under the Act. (Section 12).

Like all other Land Tenure Abolition Acts, against the Collector's award, an appeal lies to the Bombay Revenue Tribunal; otherwise the Collector's award is final (Section 9).

The provisions of the Bombay Tenancy and Agricultural Lands Act, 1948 have already been applied to these villages and are to continue to regulate the relations between landlords and tenants except in so far as they are not in any way inconsistent with the express provisions of this Act.

Repeal.

The Baroda Ankadia Villages Rules of 1932 have been repealed (section 15) and the leases and agreements have been cancelled (section 3); but such a repeal or cancellation will not affect the validity, invalidity, effect or consequence of anything done or suffered or any obligation or liability already incurred or accrued before the appointed date.

Rules.

Government has framed rules under section 14 for the following:—

- (1) a form of application under section 6(2),

- (2) the value of the court-fee stamp to be affixed to the appeal petition to the Collector under section 11.
- (3) The denomination, etc., of the transferable bonds under section 12.

In short, the provisions of the Act follow the familiar pattern of other Acts already passed by Government in pursuance of its policy of agrarian reforms.

6. *Effects of the legislation.*

The effects of the legislation may be classified into administrative, financial and socio-economic.

Administratively, the changes effected are considerable. The Ankadedar, who was lordling over the village for generations, has been dethroned from the pedestal and levelled down to the position of an ordinary landholder. He has now no voice in the village administration. The psychological effect on the ryots has been beneficial. After the abolition of this intermediary, Government has appointed the village executives consisting of 25 talatis, 152 patels and 134 inferior village servants at an estimated cost of Rs. 56,000. This has been the irreducible minimum for efficient village administration.

We have noticed that the Baroda villages have been surveyed but some have not been settled. The ankadia villages of other States shown in the second Schedule have neither been surveyed nor settled. They will have to be surveyed and settled and the Record of Rights will have to be introduced in them. These operations can be spread over a few years and their expenditure will not have to be met in one single year.

Financially, the legislation is a paying proposition. The financial implications are set forth below:—

Receipts.		Expenditure.	
Recurring.	Non-recurring.	Recurring.	Non-recurring.
Rs. 1,63,000	Nil	Rs. 56,000	Rs. 5,74,000.

The recurring receipts of Rs. 1,63,000 are attributed to the resumption of the nuksan (loss) sustained by Government annually on account of the surplus revenue retained by ankade-

dars under the ankadia system. Now, this amount will accrue to Government as a net recurring gain on account of land revenue. The recurring expenditure is due to the appointment of additional staff of talatis, patels and inferior village servants in these villages as administrative arrangements. Lastly, the non-recurring expenditure is on account of compensation payable to the ankadedars. It should not be forgotten that this amount is payable in transferable bonds repayable during 20 years. If it is payable in cash, the recurring receipts would cancel out the non-recurring expenditure within five years. Having regard to the recurring expenditure of Rs. 56,000, there is a net annual gain of over one lakh of rupees to Government. And that is from 152 villages only.

Socially, perhaps the effects will be far-reaching. With the loss of power of revenue management, the ankadedar has been deflated and, naturally enough, finds himself at a loose end! But in view of his position in the village, he will be appointed as Patel of the village, and continue to hold sway over the village administration. As a result, he will not suffer much socially. The fact that he had been the only link between Government and the ryots has been broken and the latter have been brought into direct contact with Government. Freed from the liability of the village management, perhaps, he will be able to find more time for his economic progress. However, where the ankadedar is a Bhil or Thakarda, the legislation would cause a sense of initial frustration and helplessness because of their illiteracy and general backwardness. But Government cannot continue an outmoded system only because it would affect certain backward and scheduled castes and tribes. Their conditions and prospects will be ameliorated under the beneficent provisions of the Constitution of India.

THE MATADARI ESTATES

1. *Introduction.*

Now, we pass on to the 31 Matadari estates of the Bawishi, Vatrak Kantha and Gadhwada Thanas merged in the districts of Ahmedabad, Kaira and Sabarkantha. They consisted of entire villages and were not governed by any enactment or rules before their abolition. Like the Salsette estates, they formed a privileged form of land tenure in those Thanas and were distinguishable from the matadari system of patelki service, obtaining in the old Gujarat districts of Ahmedabad, Kaira, Broach, Surat and Panch Mahals governed by the provisions of the Matadars' Act, 1887.

The word 'Matu' (મતુ) in Gujarati means a signature and the word 'Matadar' therefore, means a signer. The estates were called "Matadari" and their holders Matadars, because the holders thereof had to sign a bond for the payment of the revenue.*

2. *Geographical background.*

The villages were situated on the border lands of the Baroda territory and in many parts inaccessible because they were cut by rivers and ravines. The Matadars were mostly Thakardas with a sprinkling of Patidars in some villages. They were generally illiterate and backward. "It is said that the political circumstances of each province or district have more or less affected tenures; other differences in the incidents of their tenures have their origin in the caste of land-owning and cultivating classes, in the greater or less abundance of labour, facility of irrigation and fertility of soil and in the more or less frequent changes of ownership."† This was largely true of the Matadars in these estates. In these unsettled political conditions, Government wanted an intermediary, who would collect revenue for Government without much cost of collection.

* For the meaning of the 'Matadar', please see the Glossary of Gujarati Revenue and Official Terms by E. P. Robertson (1865).

† Dandekar: Law of Land Tenures, Vol. I Introduction, p. cxii.

In those days, the backward but militant Thakardas were found and recognised as a proper agency for this work. We will see later on that although the Thakardas were allowed to continue in the revenue management of these villages, they were not recognised as jurisdictional or non-jurisdictional Thakors and were refused the status of the Talukdars of Gujarat. Had the Thakardas been educated, perhaps the status of the estate-holders would have been different. Thus, the political conditions and the castes of the Matadars have considerably affected the tenure.

These estates were divided into Rajawat and non-Rajawat according as the Matadars had descended from a Raja or not. They covered an area measuring 102 sq. miles. They were situated as under:—

(a) *Bawishi Thana. Rajawat.*

1. Harkhajina Muwada, 2. Anrajina Muvada, 3. Vatwa, 4. Bardoli, 5. Harsoli, 6. Palundra.

Non-Rajawat.

7. Dabhada, 8. Vadodra, 9. Salki, 10. Anguthla, 11. Khanpur, 12. Rakhial, 13. Sametri, 14. Kalyanjina Muvada, 15. Sahebjina Muwada, 16. Kadjodra, 17. Lihoda, 18. Siawada, 19. Lawad, 20. Barmuada, 21. Ged, 22. Morwad, 23. Polajpur.

(b) *Vatrak Kantha Thana.*

Non-Rajawat.

24. Nirmali, 25. Jeher, 26. Kaprupur, 27. Mahisa, 28. Porda, 29. Dana,

(c) *Gadhvada Thana.*

30. Chandap and 31. Gazipur.

These estates had a number of hamlets grown out of the main matadari villages. Their number was 103 in all.

3. *Historical background.*

In order to appreciate the true character of these estates, it is absolutely necessary to know their historical background. Before the British Government took over the administration of

the estates in consequence of settlements effected in the beginning of the nineteenth century, the villages were under the direct control of the Gaekwar. The matadars were directly and personally responsible for payment of tribute to Baroda. The amount of tribute depended more on the means at the disposal of the Gaekwar to enforce its payment than on the capacity of the village to pay. Its recovery was effected by periodical march of military troops through the estates. This was called "Mulkgiri" or 'seizure' of the country. At the time of settlement of the Mahikantha in 1812, the obnoxious feature of Mulkgiri was abolished and the tribute was fixed according to what had been levied in previous years with the result that some villages had to pay heavier tribute than others. In 1820, the British Government gave guarantee to recover the tribute from the villages of the Bawishi Thana and to pay it to the Gaekwar. As a result of this settlement, the Mulkgiri army of the Gaekwar ceased to collect Ghasdana from these estates. In 1840, the system of "Nisha" was introduced. Accordingly, one man stood surety for all the villages for payment of the tribute. But it did not work well and was abolished in 1897 by Colonel Ferris and the old security system was re-introduced.* This settlement resulted in the transfer of authority from the Gaekwar to the British without affecting the authority of the former.

In the case of the Vatrak Kantha estates of Jehar and Nirmali, similar circumstances existed. While taking over the Bawishi Thana in 1823, these estates were allowed by the British to continue under the control of the Gaekwar, although they paid Ghasdana to Baroda in addition to land revenue. The matadars, who were responsible for payment of Ghasdana to Baroda, were mere hereditary village servants and had no interest in the proprietorship of the soil. These estates originally belonged to the Mia of Mandwa. In 1789, the Thakor of Ambaliara usurped these estates. The Mia sought help from the Gaekwar, who stormed and brought down the Ambaliara Thakor to his knees. In consideration of this help, the Mia surrendered his estate subject to the condition that one-third of the estate revenues should be paid to him and the two-thirds should be

* K. B. F. S. Master : *The Malikantha Directory*. Vol. I (1922) p. 214.

retained by Baroda. Thus, the estate came to be co-shared between the Mandwa estate and the Baroda State in proportion of 1 : 2. The income was shared after deducting the amount of the Baroda tribute and administrative charges. However, this practice was subsequently substituted by a fixed annual payment to Baroda and Mandwa of Rs. 961 and Rs. 464, respectively. This practice was peculiar to these estates, because the surplus revenue in other non-rajawat villages was utilized for the public purposes of the estate.

As regards the Gadhwana Thana estates of Chandap and Gazipur, the estates were Bhagdari villages wherein the Matadars managed collection and payment of tribute and appropriated the surplus.

In 1921, the Baroda Government requested the British Government for the restoration of these matadari estates, on the ground that these villages were taken under management by the Political Agent, although the status of the Matadars did not warrant such a step. After protracted correspondence and particularly due to Mr. Shattock's recommendation, the villages were handed back to Baroda in 1943 and were attached to the Baroda State* under the Attachment Scheme.

It should be made clear at this stage that, at no time, the status of these matadari estates was defined. Two attempts, however, seem to have been made before 1947, first in 1939-40 by Mr. Shattock and secondly by the Baroda State soon after their attachment in 1943.

4. *Shattock's findings.*

During the inquiry made for exploring the possibility of attaching the smaller States and estates to bigger States, Mr. Shattock noticed that no definite orders regarding the status, privileges and rights of the Matadars as a class had ever been issued by Government. But separate decisions taken by the Bombay Government and the Western India States Agency gave a fairly clear picture of their recognised position. They were originally included in the Agency area along with non-jurisdictional States and estates, because the independent and warlike character of the villagers had prevented the Gaekwar

* Baroda Huzur Notification No. T/3-II dated 24th July 1943.

from getting any control beyond the Mulkiri levy over these villages. The result had been the anomaly that the villages of most of these estates, whether managed as communities or through their matadars for revenue purposes, had the position of tributaries and their annual payments to Gaekwar were fixed in perpetuity. But as they had not even the semblance of government which existed in the States under the Chiefs, the whole duty of administration fell upon the British agency.*

According to Mr. Shattock's inquiries,† the distinguishing features of the Rajawat and non-Rajawat estates were as follows:—

(1) In the Rajawat villages, certain matadari families, who were the sole proprietors, defrayed the village expenses including tribute by a tax levied from the occupants or cultivators, who did not belong to the matadari families.

(2) In the non-Rajawat villages, there were no proprietary families. The whole village community was the proprietor, and the management of the village was conducted by the matadars, who were merely managing trustees or representatives of the whole village. They had no special privileges beyond the remuneration for their service. All occupants of the lands unless specially exempted were held liable to pay their quota towards tribute and other village expenses. Most of the important matadari villages were of this type.

The superiority of the Matadars of the Rajawat villages over those in the non-Rajawat villages lay in their right to appropriate any surplus of revenue collected after the payment of the Baroda tribute, Thana contributions and village expenses. In spite of the higher status of the matadars in the Rajawat villages, the recognised position of both the classes was substantially the same. Neither class had been given the status of Talukdars of Gujarat. Government had declared as far back as 1885 that "there are no Chiefs or Talukdars in the Bawishi (Thana) villages. There appear to be some villages in which the matadars claim proprietary rights; but whatever their

* G. R., Political Department No. 1639 of March 1885.

† Shattock's report on the Future of the Smaller States and Estates of Gujarat and Kathiawar, p. 41.

claims may be worth, they cannot be admitted to the status of Talukdars, etc.”*

The entire management of the estates by the British was from the point of view of safeguarding the tribute payable to the Gaekwar. Having regard to the above facts, Mr. Shattock concluded as under:—

“The status and rights of matadari estate-holders whether in Rajawat or non-Rajawat villages are inferior to those of non-jurisdictional Talukdars and Bhagdars of other Thana areas.” (para. 54 of his Report). As a result, he proposed the attachment of these estates with Baroda.

5. *Findings of the Baroda Committee.*

After attachment to the Baroda State, that Government appointed in 1943 a Committee for inquiry and report on the land tenures, rights and responsibilities of the Matadars vis-à-vis their tenants and Government. The Committee submitted its report in 1947.† The report is very revealing and throws much light on the rights and responsibilities of the Matadars, their tenants, system of land revenue, etc. It confirmed the conclusions arrived at by Shattock and elucidated many obscure points. One of the important findings of the Committee was about the proprietary character of the Rajawat villages. The Matadars of the Rajawat villages “are considered proprietors in the sense that they are entitled to keep for themselves the surplus of the revenue collected under various heads after paying demands on account of tribute, village expenses, etc.”

“Matadars were never owners of their villages. They were representatives of the people who were given powers to execute documents on behalf of the village, as it was not possible for Government to deal with each individual separately in those old days. They were the link between the Government and the people”. (para. 19 of the report). After a comparison of the characteristics of the Ankadia villages with the matadari estates, the Committee recommended to treat the estates as Ek Ankadia villages and, consequently, a lump sum called ‘ankado’ came to be fixed for each village. But after the issue of those orders by the

* G. R., P. D. No. 4511 of July 1885.

† Baroda State Order No. (R) 288/111 dated 28th April 1947.

Baroda State, the Government of India detached those estates from Baroda in October 1948. The estates thus reverted to their status prior to 1943. Consequently, their position remained as fluid and nebulous, as before. This was the position of the estates immediately before their abolition. The Matadars collected the amount of ankado fixed by the Baroda State and paid the same to Government.

From the above review, it will be clear that the main responsibility of the Matadars was the collection of the revenues from the villages and payment of the 'ankado' to Government. As remuneration, they enjoyed the surplus in the Rajawat villages and Chandap and Gazipur in the Gadhwana Thana. Besides the revenues, they held extensive gharkhed lands and patel palat lands for the patelki service.

Besides the levy of vighoti, the Matadars used to levy customary dues like nazarana on transfer of occupancy rights, Kanya chori, Kasab vero, jaivar hak, Bham vero, etc. These haks were obnoxious and were abolished by Government after the merger. Lastly, they used to exact the usual services from holders of service lands like barbers, potters, and carpenters.

6. *Land distribution.*

In order to appreciate the rights and responsibilities of the Matadars, it is absolutely necessary to know the different categories of lands in a matadari village and the land revenue liabilities fixed thereon by the Matadars and Government.

In each village, a Land Register called Jarif Kharada was maintained since 1853. It was the most important village record in those villages. According to those registers, the land distribution was as under:—

Village lands



The sarkari lands were held by a whole body of the Matadars or the village community and the occupants were merely tenants, although they were allowed to sell or mortgage the land in their possession. The tenants paid assessment according to

the village rates. The Barkhali lands covered different categories of alienations like Vechania, Gharenia, Karamchas, Pasayata, etc., and were in actual possession of individual Matadars or Bhayats. All the Barkhali lands appeared to have been originally held by the Matadars as well as non-matadars and such lands when inherited from father to son or in the same family came to be known as 'karamchas' (hereditament). When they changed hands either by sale or mortgage, they came to be described as Vechania or Gharenia. Prior to the maintenance of the Land Registers (Jarif Khardas) in 1853, it would seem that the original owners of such lands paid very little or no assessment. But whenever the liabilities on account of tribute could not be met from the assessment of the tribute-paying lands, the lands in question were saddled with increased assessment.

In those villages, the Matadars did not generally receive any revenue from

- (1) gharkhed lands,
- (2) jiwai lands,
- (3) devasthan and dharmada lands,
- (4) vechania and gharenia lands and
- (5) pasayata lands.

Besides the above, there were other types of alienations called Salamia, Ghasdana, Ranvatia, Jarat and Wanto. The '*Salamia*' lands were those which were originally wholly free but were subsequently subjected to payment of salami as a result of unauthorized alienations or regular inquiry under the Mahikantha Alienation Rules of 1913. Salamia lands were, therefore, not necessarily of any one category. But in those estates, the salamia lands were those, which paid salami to the Matadars.

The *ghasдания* lands were found in the Jeher and Nirmali estates. These lands were the khasgi (private) lands of the Thakor of Lalna Mandwa.

The *Ranwatia* lands were those which were granted as a reward for services in the war. *Jarat* lands were found in the Mandwa estate and were like the jat inam lands of the Thakor. The expression '*Wanto*' is very well understood and needs no com-

ment. Several Matadars have wanta lands in the former Baroda State area, which have been recognised as private property by the Government of India after the merger.

In the ordinary vighoti system, assessment is fixed per bigha or acre after field to field survey and classification of the soil. But the vighoti system that obtained and obtains in these estates is different. There was no regular classification of the soil. The Matadars and the ryots for reasons of their own convenience classified lands and fixed rates of assessment for each class by mutual understanding. The classification was generally based on the manuring and means of irrigation in the fields. Some of the classes were (are) :—

Kuvetar=irrigated field.

Khatarvado=manured field.

Nakhatru=unmanured field.

Kanthawala=on the river bank.

Itar=miscellaneous.

It should be remembered that the system of assessment was not the same in all those villages. In Barnuada, Kadjodra and Sametri villages of the Bawishi group, cash assessment called 'Karamvero' was levied from the cultivators, having regard to the area of the land in their possession and their status in the village. No rate was fixed, but it generally varied from 4 annas to Rs. 4. The Karamvero was gradually replaced by the cash vighoti system. Lastly, the rates of vighoti were also not uniform for obvious reasons. In some villages like Vatwa, Vaje (crop-share) was also recovered. In Vadodra, the rates were fixed on the caste of the cultivators. All lands were subject to payment of assessment except gharkhed lands of the Matadars or Bhayats or free-hold lands granted to Matadars and others for service to be rendered to the village.

The statistical information about the villages, the approximate revenue and the amounts payable to Baroda by the Matadars were very minutely inquired into and reported by the Committee. Besides the tribute, the Matadars had to pay Thana Varad, Majmundari Falo, local cess generally and Jama-bandhi (Rs. 20,305) in respect of the Bawishi Thana villages. The tribute and the Jamabandhi were levied from the village community. The tribute

bore no proportion to the resources of the village, as it originated in forcible demands. The Jamabandhi was a specified revenue of the village commuted by the Political Agent into a lump sum based on the average revenue collections of ten or thirty years. The Matadars collected tribute and jamabandhi and paid them to Government. Thana contributions were levied on all the cultivable lands of the villages. Local cess at 2 annas per rupee of assessment was levied on all the cultivated lands of the villages. The waste lands were allotted to the villages and formed part of the villages. The details were as under:—

Name of the group	Area in square miles	Number of villages	Population	Approximate revenue	Government dues (Tribute, Jamabandhi, Thana and Majmundari contributions)
(1)	(2)	(3)	(4)	(5) Rs.	(6) Rs.
Bawishi Thana...	82	59 plus 20	34,185	53,000	42,670
Vatrak Kantha Thana ...	20	18 plus 2	8,404	13,000	5,114
Gadhwada Thana ...	2	2 plus 2	1,029	1,454	116
Total ...	102	79 plus 24 = 103	43,608	67,454	47,900

The population might not have increased much in view of backward constituents of the population, geographical configuration of the estates, difficulties of transport, and want of any large-scale industries. The ankadas were based upon an imperfect system of survey and classification. Since the system of assessment was eminently suitable to the tract and its backward people, Government could not realize the full assessment which was due to the State. And the British or Baroda Government did not think it expedient and wise to enhance the rates of assessment on account of political and administrative exigencies. Even on this basis, Government had to sustain a loss of the order of Rs. 20,000 per year. If the loss of revenue on account of the alienations (gharenia, vechania, gharkhed and pasayata lands) were taken into consideration, the extent of 'nuksan' or loss suffered by Government would be considerable. According to the recent alienation inquiries, the land alienations were as under:—

	Area in bighas.
1. Personal inam	6,386
2. Devasthan	116
3. Dharmada	318
4. Village servants useful to community	154

6974=7,000 bighas.

If an average assessment per bigha is taken at Re. 1/-, the annual assessment on account of these alienations works out to Rs. 7,000. This figure excludes the loss on account of service inam lands held by village servants useful to Government. Even on this basis, Government suffers an annual loss of Rs. 27,000 (Rs. 20,000 plus Rs. 7,000). The aggregate loss would be still greater if the low assessment based upon the empirical methods of the Matadars and the caste assessment are taken into consideration. If all the above factors are taken into account, the annual loss to Government on account of the village revenues would be of the order of Rs. 40,000.

7. *Case for abolition.*

From the foregoing survey, it will be clear that the estates were like small zamindari pockets in the otherwise ryotwari areas. In view of their turbulent character and the warlike propensities, the political exigencies demanded that the status quo should be maintained regarding the rights of the Matadars, the amounts of the Baroda tribute and other contributions payable to the Thanas and the rates and methods of assessment. The Government of the day was content with receiving its dues and the Matadars were left to themselves in regard to the internal management of the villages. This was not because the British recognised their status in any way superior to that of revenue farmers, but because any tinkering with the existing village administration would have resulted in creating avoidable discontent and disturbance among the Thakardas and their militant brethren. With the pacification and settlement of the countryside, Government did not require any intermediary for recovery of its dues from the villages. After the merger, in the new administrative set-up, they outlived their utility. Lastly in furtherance of the Government policy to abolish the intermediaries between Government and the ryots, it was decided that the estates should be abolished by under-



taking special legislation on the lines of the Panch Mahals Meh-wassi Tenure Abolition Act, 1949.

To implement the above decision, Government introduced the Bill to abolish the matadari tenure in the February session of the Legislature in 1953. The Bill was passed by both the Houses of the Legislature without any amendment. It was welcomed as a measure for abolition of intermediaries in the revenue administration. After obtaining the President's assent, it was brought into force as an Act with effect from the 15th August 1953. It may be noted that it was the first legislation for abolition of the special tenure of the merged areas of the State.

8. *The Bombay Merged Territories (Matadari Tenure) Abolition Act, 1953.*

The Act applies to the 31 matadari estates situated in the Ahmedabad, Kaira and Sabarkantha districts. The names of the estates are specified in the schedule appended to the Act.

Definitions.

'Ankado' has been defined as a lump sum paid annually by a Matadar to Government as revenues of the matadari estate. This amount will mean the lump sum payment fixed by the Baroda Government immediately before the merger in 1948 in consequence of the recommendations of the Baroda Committee's Report.

The term 'Bhayati land' means land assigned to a co-sharer of a matadar in the village. From this land, the Matadar received no revenue with the result that such lands were enjoyed rent-free by the Bhayats.

The expression 'Gharkhed land' has been defined so as to conform to the existing position enjoyed by the Matadars for generations. Like Bhayati land, these lands were also enjoyed wholly free from payment of land revenue.

The term 'Land Registers' refers to the Jarif Khardas maintained since 1853 in each village. It was the most important record for ascertaining the revenue as well as the liabilities of landholders in the estates.

The expression 'Matadari estates' means the estates referred to in the schedule appended to the Act and comprises the hamlets sprung out of the main estate villages in the course of the last 150 years.

The Land Registers showed specifically lands, which were 'sarkari' as opposed to 'Barkhali' and their holders were registered as occupants. The definitions of the words 'sarkari' and the 'registered occupant' conform to that position.

If any question arises whether any land is gharkhed, bhayati or sarkari, Government has been empowered to decide it directly or through its officer, whose decision shall be final. This provision is necessary in view of the indeterminate and obscure nature of some lands and the likelihood of disputes about their nature.

Section 3 is very important inasmuch as it abolishes the Matadari tenure with all its incidents. The estate villages are resumed and made liable to payment of land revenue according to the provisions of the Land Revenue Code, 1879. However, these provisions do not affect the devasthan and dharmada grants, which will continue either partially or wholly exempt from payment of assessment as hitherto. This exemption has been retained in view of the general policy of Government to continue such grants in the State, as they are necessary for a public purpose.

Section 4 is even more important for its positive provision for conferring occupancy rights. It recognises the following holders as occupants within the meaning of the Land Revenue Code:—

- (1) matadar in respect of his gharkhed lands,
- (2) co-sharer holding bhayati land,
- (3) a registered occupant in respect of the sarkari land.

The last holder was already an occupant paying full assessment of the land; but the first two were holding lands wholly exempt from payment of assessment and have become liable to payment of full assessment. The rights of the Matadar are extinguished and the Matadar is freed from the liability of paying 'ankado' to Government as an incident of the matadari tenure. This specific provision extinguishes any vestiges of the tenure either

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determined or obscure particularly those cesses (lagas) which cultivators of all sorts had to pay to the Matadars.

Section 5 is a declaratory provision. The Matadars were revenue farmers and had no proprietary interest in the villages. Still however, in view of the indeterminate nature of their rights, specific provision has been made to vest in Government all uncultivated and waste lands and all property specified in section 37 of the Land Revenue Code. This is necessary for removal of any doubt in the matter. Government is empowered to dispose of these properties under sections 37 and 38 of the Code, i.e. to assign lands for public purposes like grazing, cremation grounds, threshing floors etc.

Section 6 provides for payment of compensation for extinguishment of any rights of a Matadar under the Act. A matadar has to apply to the Collector within a period of six months from the coming into force of the Act. The Collector has to hold a formal inquiry to assess and award compensation. This is a routine provision.

Section 7 provides that the compensation payable to a Matadar shall be computed at three times the average of the amount of such portion proved to have been received by him during the five years immediately before the coming into force of the Act. The Collector is empowered to apportion the amount of compensation among the co-sharers entitled to it (section 6). This provision is necessary in order to avoid disputes among the Matadars, who were of different castes (mostly Thakardas and Patidars). The Act has been amended in the last session (September 1953) in order to provide for payment of compensation in transferable bonds bearing interest at 3% and redeemable during a period of 20 years in equated annual instalments of principal and interest.

Apart from the revenues received from the village after payment of the Ankado to Government if any person other than the Matadar feels aggrieved that any of his rights has been extinguished or modified by any provisions of the Act, he may apply to the Collector for compensation under section 8. The same procedure has been prescribed for assessment and award of compensation by the Collector.

In determining the amount of compensation under section 6 or 8, the Collector is to be guided by the provisions of sections 23(1) and 24 of the Land Acquisition Act, 1894 (section 9).

Appeals against the Collector's awards lie to the Bombay Revenue Tribunal (section 10).

The value of court-fee stamp prescribed under the Rules is Rs. 3/- in conformity with similar provisions in other Land Tenure Acts (section 12).

The provisions of the Bombay Tenancy and Agricultural Lands Act, 1948 will continue to govern the relations of landlord and tenant except in so far as they are not inconsistent with the provisions of this Act.

Lastly, section 16 embodies a saving provision.

Rules.

Under the rule-making power vested in Government under section 15, Government has framed Rules regarding the form of application to be made to the Collector under section 6(2) and the court fee stamp to be affixed to an appeal to the Bombay Revenue Tribunal under section 12.

9. Consequences of the Act.

The consequences may be administrative, financial and social. (a) To begin with, as regards the administrative effects of the legislation, it is already stated that the village administration was managed by the Matadars. On their abolition, Government has appointed a few talatis and inferior village servants. The Matadars will act as Patels in the villages. On account of these administrative arrangements, Government will have to bear an annual expenditure amounting to Rs. 13,000 approximately. Many villages are unsurveyed and unsettled. Some villages, which are surveyed and settled according to the old system, cannot lay pretence to any scientific basis. As a result, the survey and settlement will have to be introduced de novo in these villages. The expenditure will not be heavy and will be spread over two or three years. In the nature of things, these operations will take some time. Government should, therefore, introduce provisional settlement in these areas in order to prevent loss to Government on account of the exemptions enjoyed by

the Matadars in respect of the gharkhed and bhayati lands, the veehania and gharenia and other lands. As a necessary concomitant, Government will have to introduce the Record of Rights on the basis of the old Land Registers (Jarif Khardas).

(b) As regards the financial effects, Government sustained an annual loss of Rs. 20,000 on account of the surplus revenue enjoyed by the Matadars after payment of the Ankado to Government. But as stated above, the barkhali lands and the gharkhed and bhayati lands did not pay anything towards the Ankada. All such lands are now subject to full assessment. The aggregate loss on account of the barkhali lands so exempt would be of the order of Rs. 7,000.

Broadly speaking, the financial implications of the legislation would be as under:—

Receipts.		Expenditure.	
Recurring.	Non-recurring.	Recurring.	Non-recurring.
Rs. 40,000	Rs. 13,000 (village servants).	Rs. 53,400 (in transferable bonds).

On account of compensation payable to the Matadars, it is estimated that there will be a non-recurring expenditure to the tune of Rs. 53,400. The amount is payable in transferable bonds repayable during 20 years. During this period, all the villages will have to be surveyed and settled with the result that extensive barkhali and other lands which enjoyed exemption from payment of land revenue will yield substantial increase in land revenue to Government. The increase will cancel out the expenditure on compensation in a year or two. In short, the legislation will not only streamline the village administration but will bring considerable revenue to the public fisc.

(c) Socially, the change will be much greater. Before the abolition of the tenure, the Matadars, who were illiterate and backward and, who banked upon their 'Mewas' will have to adjust themselves to the new conditions of life. During the British regime, the Thanas were maintained in the primitive

conditions, where the light of learning and progress was not allowed to penetrate. To all intents and purposes, we do not see much change in the social habits of the Matadars and the ryots even after 150 years of the British political superintendence. There is neither any industry, (much less capital formation) nor investment found in those areas. This social and economic stagnation will go and the Matadars will wake up to new possibilities of life. In some cases, it may be a hard awakening. Their Karbharis, who were virtually the administrators in these villages, will have to turn to other vocations of life. The people at large, who have been freed from payment of many obnoxious taxes after the merger, will have to pay only land revenue to Government and will have no connection with the Matadar of the village. The abolition of the Matadar-intermediary will thus bring them in direct contact with Government.

CHAPTER VII

THE BARODA WATANS

1. *Introduction.*

Like the paragana watans of the old Bombay State, the watans in the former Baroda State were granted to certain leaders of the villages, who were the chief instruments in the collection of the land revenue for the group of the villages called 'paragana'. The watandars were called Desais, Majmundars or Amins, and were spread over the entire estate. The watans and the watandars were the legacy of the past administrations. In view of the strong entrenched position enjoyed by the watandars and the enormous influence wielded by them in the villages, the Gaekwar could not think of dislodging them from the village administration; but they were continued as watandars in their paraganas. They were akin to our paragana watans of class V and were governed by the Baroda Watan Rules of 1932, which were not repealed by the Bombay Merged States (Laws) Act, 1950, applied on the merger of the State. Although the origin and the service conditions of these watans were practically similar to our watans (which have been abolished by the Bombay Paragana and Kulkarni Watans Abolition Act, 1950), they had distinguishable features which will be dealt with later.

The expression 'Desai' was defined as "the principal revenue officer of a district or paragana under the old rule". The Majmundar was the principal revenue accountant and the Amin was a superintendent over the village patels of the district appointed to adjust disputes and furnish local information for the assessment of the revenue to the Collector. Lastly, the term 'vatan' was defined as lands granted as emoluments to hereditary officers such as Desais, Majmundars, Amins, etc., for rendering service to Government.*

The watans consisted of certain villages, lands and cash haks like the Bombay State watans and were held by the watandars. The castes of the watandars differed in different parts of the State according to the historical and administrative im-

* બારબદી વિષયક ગ્રંથક, વ્યાખ્યાન, p. 105.

portance enjoyed by a particular caste. The watans in Baroda and Shinor were predominantly held by the Marathas who clustered round the capital of the State (i.e. Baroda); those in Savli were held by the Patidars, those in Dabhoi by the Nagar Brahmins and Kayasthas, those in Gandevi and Navsari by the Kayasthas and those in Petlad, Vadnagar and Visnagar by the Nagar Brahmins.

2. *Historical background.*

Like the Bombay paragana watans, these watans had their origin in the revenue management of the villages in the taluka or district in the Baroda State. The essence of the watan was service and the land and/or cash assigned as watan were the emoluments for rendering the said service. It need not be said that in the early period of the Gackwar's regime, the Desais, Majmundars and Amins were the pivots of the revenue administration and were indispensable instruments of collecting land revenue. They had got the past records and knew the vahivat of the villages. The Gackwar therefore continued them in possession of their watans and service of that State.

The question of the settlement of their watans was however taken up first in 1889. It was necessitated presumably owing to the indebtedness of many watandars and their reluctance to serve in person. In order to rehabilitate the status of the watandars, the Baroda Government framed Rules in 1892. Instead of serving in person, the watandars deputed low-paid clerks to fill low posts in the revenue courts. The Rules therefore provided that they should render service to the extent of 6 annas in a rupee of their emoluments and at the same time, they were encouraged by appointment in responsible posts in the State. Some watandars contended that it was wrong to state that all watans were liable to service to the full extent of their value. This controversy was laid to rest by the principle laid down by Raja Sir T. Madhavrao that the watans were service watans.

In 1893, the watandars held lands valued at Rs. 1,09,641 and cash allowances amounting to Rs. 82,194 per annum. They also held 13 entire villages valued at Rs. 35,398.*

In the Final Report, the Survey and Settlement Commissioner (Shri Kersasp Rustomji) complained that when the watans in the Bombay State were commuted on account of their being useless, the Baroda Government considered it expedient "to augment the class by suitable measures of reform to altogether dispensing with it."* Thus, instead of undertaking the service commutation settlement of the type of the Gordon and Pedder Commissions, that Government framed Rules to reform and preserve the watans. Despite the best intentions of Government, the watandars particularly of the Petlad taluka viewed them with misgivings and doubts and agitated vehemently against their enforcement. Consequently, the Rules were held in abeyance. After due deliberation, they were modified without sacrificing the main principles or policy on which the service rested. The revised Rules were enforced in 1898. They were revised from time to time and were finally published in 1932 by Government.

3. *The Baroda Watan Rules, 1932.*

In order to appreciate the characteristics of the watans, it is absolutely necessary to understand the Rules framed for their regulation. It should be made clear that they were framed on the basis of the Bombay Hereditary Offices Act, 1874; but they had distinguishing features, which will be noticed later on. The main provisions of the Rules are summarised below:—

Rule 2 defined watan land as land entered as pasayata or under a similar head in the name of the watandar unless it was proved that he held it on a different tenure by order or grant of a competent authority or by a title under a recognised mode of acquisition. Kothli santh for watan land was reckoned as land. This was really a novel conception of the watan.

The note under rule 22 explains the meaning of the term 'service' in the widest terms as under:—

- (a) Service may or may not be exacted by Government,
- (b) It may or may not be of a practical kind, and
- (c) service watan may or may not be of a double character, partly for past services, partly for future services of the vaguest kind.

* Final Report of the Barkhali Branch of the Survey and Settlement, 1900, para 39, p. 21.

This explanation seems to have been added to allow Government to have the maximum latitude in interpretation of the term 'service'. At the same time, it might have created uncertainty in its interpretation.

All watans were liable to service to the fullest extent of their value; but as an act of grace in future, 12 annas were to be deducted in lieu of watan service and thereby watandars got non-serviceable portion of four annas (Rule 21).

The watans were inalienable i.e. could not be mortgaged, sold or otherwise alienated without the sanction of Government. They could not be alienated even for the life-time of the watandar without the sanction of Government. Any alienation made in contravention was deemed null and void. The watan land was made khalsa and was treated as Government unoccupied land and put to auction. Certain types of alienations referred to in proviso (2) of Rule 27 were only recognised. It need not be stressed that the Baroda Government never recognised the watandars' claim that the watan lands belonged to them. This is evident from the fact that the State Government turned down their proposal that the watan lands should be made khalsa and entered as Sarkari in the name of the watandar. The reason was that it contravened the principle laid down in Rule 27 (vide Order No. 15 cited below Rule 27). This view was reinforced by the Order No. 8 cited below rule 20. When a watandar died heirless, the watan lands were resumed and made khalsa and were treated as Government unoccupied land (waste).

The succession to watans was provided under Rule 20. A sharer in the watan was not allowed to inherit another watan or any share in another watan without Government permission. Females were not permitted to succeed to the watans; but they were entitled to maintenance allowance at the discretion of Government. The watan was registered in the name of the watandar; but it might be registered jointly in more than one name (Rule 15). When the watan was declared indivisible by the Huzur, it descended to the eldest male (Rule 16). When the registered watandar died, the name of the nearest heir was registered according to the lineal primogeniture (Rule 17).

In the Vatan Rules, there was no mention of the entire watan villages. But that the watan included entire villages also was apparent from the Rule 7B of the Principles of Disposal of Village Cases which read as follows:—

“There is no reason to distinguish villages when they form part of a watan from other emoluments pertaining to it; such villages are liable to be charged service to the full extent of their value and Rules 25 and 26 of the Vatan Rules shall be made applicable to them.”

Besides, there is the evidence of Mr. Elliot who referred to the existence of 13 entire watan villages in 1891 during the settlement of those watans.

In short, the Baroda watans were service watans and the watan lands and villages were treated as grants assigned for remuneration of the watandar. Apparently, they resembled our paragana watans of class V but certain features of the Baroda watans were distinguishable from our watans. They are set forth below:—

- (1) The Baroda Vatan Rules applied to the watans or paragana watandars only; whereas our Watan Act, 1874 applies to those of patils, kulkarnis and mahars as well.
- (2) The former could not be alienated during the life time of the watandar, as was done under section 5 of the Watan Act.
- (3) On a watandar dying heirless, the watan land was resumed by Government and entered as waste.
- (4) Females were not postponed to a competing male watandar but were deprived of the right of succession to watan. However, they were entitled to maintenance allowance.
- (5) Cash allowances were subject to pedhikapat i.e. cut on every succession.
- (6) Watans were subjected to service cut.
- (7) They were not subjected to service commutation settlement like our watans. Although they were not subjected to the service commutation settlement, the po-

pular Ministry in 1949 exempted watandars from the obligation of service and watandars were given nem-nooks after deducting the amount of service cut at the rate of 8 or 12 annas in a rupee, as the case might be. As a result, these watans had become non-service.

From the foregoing facts, the fundamental fact emerges that like our watans, the Baroda watans were not permanent: but they were liable to be gradually extinguished being subject to service and succession cuts. It was because of these distinguishing features that the provisions of the Bombay Paragana and Kulkarni Watans Abolition Act, 1950 could not be extended to these watans; and that a separate legislation had to be undertaken for their abolition.

4. *Statistical data.*

These watans were granted or assigned for services like Desaigiri, Majmundari, Aminat, Karbhari, Deshmukhi, etc. There were 135 watandars who could be classified as under:—

Class.	Number of holders.			
Desaigiri watan	69
Desaigiri and Majmundari watan	6
Majmundari watan	30
Aminat watan	20
Darupanu watan	2
Karbhari chakri watan	5
Deshmukhi watan	1
Kamdar chakri watan	2
Total				135

As stated above, the watans consisted of entire villages, scattered parcels of lands and cash allowances. There were the following eleven entire villages, viz.,

Name of the village.					District.
1.	Jawali	...	...	...	Baroda
2.	Palaswada	...	...	...	"
3.	Devatalpad	...	...	...	Kaira
4.	Sharuwa	...	...	...	Mehsana
5.	Nedra	...	...	...	"
6.	Pindharpura	...	...	...	"
7.	Motap	...	...	...	"
8.	Dahida	...	...	...	Amreli
9.	Gangapur	...	...	...	Surat
10.	Shahpura	...	...	...	"
11.	Hakhawada	...	...	...	"

Besides these entire villages, there were scattered parcels of lands practically spread over the whole State (Baroda). Cash allowances were either hereditary or for the life-time of the holder. The cash allowances included amounts of other veros leviable (and subsequently commuted into cash) under Rule 12 of the Vatan Rules.

The cash allowances were of three kinds. To begin with, certain cash allowances were guaranteed and were not subject to any cuts (kapats). There were some for the life-time of the grantees. This category constituted the maintenance allowance to the members of the watandars either because the females were disqualified to inherit watans or the watans had been declared indivisible by Government under Rule 16(3). The third category was of allowances which were to continue for more lives than one (i.e. hereditary). The statistical details are given below:—

Lands.				
	Area in bighas.	Assess- ment.	Judi.	Nuksan.
		Rs.	Rs.	Rs.
Entire villages ...	24,531	40,202	24,034	16,168
Scattered lands ...	23,059	53,468	6,627	46,841
Total ...	47,590	93,670	30,761	63,009
				—23,187 Service cut.
				39,822

Cash Allowances.

For life-time	...	...	Rs. 1,174
Hereditary	...	...	Rs. 5,063

Total Rs. 6,237

5. Case for abolition.

From the historical background given above, it is clear that the watans and the watandars were the necessity of the past administration, when the countryside was neither pacified nor settled; and when the revenue administration was dependent upon the hereditary leaders of villages, who were in the know of the past vahivat and possessed revenue records. In those days,

it was quite natural that such leading families exercised great control over the villages and that the governments of the day chose them as the agents for collecting their dues. But in recognising those families as revenue-collecting agents, Government had to pay the price in that extensive areas—perhaps the best lands in the villages—were retained by them as their watans and some were appropriated without Government sanction (Bathamania). But the Government could not dislodge them from the village administration because of the control and influence exercised by them in the villages. When the Gaekwar made the first attempt to regulate their watans and services in 1891-92 by framing rules, the watandars as a class vehemently objected to the conception that their watans were service watans. The agitation subsided only when the rules were amended and enforced in 1898. But the dying embers of the agitation flickered during subsequent settlements. When the watandars could not convince Government about the 'non-service' nature of their watans, many refused to render service personally and contented themselves by deputing low-paid clerks to the taluka katcheris. In view of their restive or recalcitrant attitude, Government had to subject their watans to service cuts. Furthermore, unlike our watans, it should be noted that these watans were not permanent. The Baroda Government subjected them to succession cut in addition to the service cut. As a result, the watans were liable to deductions at every succession. Thus, Government visualized gradual extinction of the watans. And when the popular ministry assumed office in 1949, they (watans) were subjected to the general cut of 8 annas and made non-service and the watandars were absolved of the obligation to serve the State. In the result, the watandars were already defunct when Government decided to abolish them by legislation. In the new set-up, the watandars had no place in the modern administration and there was absolutely no justification for continuing the benefits of the watans to persons who no longer rendered any service. The Revenue Minister introduced the Bill to abolish the watans in the budget-session of 1953. It was passed by both the Houses of the Legislature with slight amendment. The opposition members welcomed the measure.

6. *The Bombay Merged Territories (Baroda Watans Abolition) Act, 1953.*

The Act follows the pattern of the principal provisions of the Bombay Paragana and Kulkarni Watans Abolition Act, 1950 enacted to abolish the paragana and kulkarni watans of the former Bombay State. It could not be extended to these watans because of the distinguishing features explained above.

The Act was passed to abolish the watans of the Baroda State only. The watans of other merged areas are not covered by this enactment. It extends to the merged territories of the former State of Baroda included in the districts of Surat, Broach, Baroda, Panch Mahals, Kaira, Ahmedabad, Sabarkantha, Mehsana, Banaskantha and Amreli. It has been brought into force with effect from the 15th August 1953.

Definitions.

Section 2 contains definitions of the expressions used in the Act. Most of the definitions are self-explanatory, and need no comment. However, the term 'cash allowance' requires a little explanation. It includes cash grants received by a watandar under the Baroda Watan Rules and includes a maintenance allowance payable to a sub-sharer or a female member of a watandar's family under Rule 16(c) or 20(2)(b), presumably because the maintenance allowances were of the nature of cash allowances for the life-time of the holder.

The definition of the word 'Collector' includes an officer appointed by the State Government. This provision has been made in view of the complaint that the Collectors have multifarious duties and therefore cannot attend to this special work. Government is empowered to appoint any other officer to perform the duties of assessment and award of compensation payable under the Act. The definition of the term 'watandar' was amended so as to include a co-sharer recognised under the Baroda Watan Rules.

All the Baroda watans are abolished and all the incidents of the watans have been extinguished. All watan lands and villages have been resumed and made liable to payment of land revenue under the provisions of the Land Revenue Code, subject however to the provisions of section 4. But such resump-

tion would not affect the alienations validly made under the provisions of the Baroda Watan Rules or the rights of the alienee thereof or any person claiming under or through him.

After resumption of the watans, a watandar is not dispossessed of his watan lands, but is entitled to the regrant of the resumed lands on payment of occupancy price at six times the assessment of the lands within a period of two years from the coming into force of this Act. The regranted lands are on new and impartible tenure. The watandar is recognised as an occupant of the lands primarily liable to payment of land revenue to Government under the provisions of the Code. If the occupancy price is not paid within a period of two years, the watandar will be liable to be summarily ejected as an encroacher. The regranted lands, which are not transferable or partible without the Collector's permission, can be alienated on payment of nazarana to Government. In the case of the old Bombay watans, the nazarana has been fixed at 20 times the assessment of the lands. The same multiple will apply to these watans also. It is alleged that the provisions of this section are oppressive on the watandars in that Government charges occupancy price at six times and nazarana at 20 times for making the occupancy transferable or partible. This allegation is based on a misconception of the true character of the watans. The watan lands originally belonged to Government and were assigned or granted to watandars as remuneration for service. The Baroda Government has never recognised the watandar's claim to the lands; on the contrary, whenever a claim was advanced, that Government stoutly denounced it. The provisions of the Baroda Watan Rules give a lie direct to such pleas. Further, the nazarana is levied because Government is entitled to some portion of the 'unearned increment' earned by a watandar on disposal of the lands, particularly for non-agricultural purposes. And this is not a novel provision. The explanation given below sub-section (2) of section 4 is self-explanatory. Sub-sections (3) and (4) are very important from the point of the watandars. The sub-section (2) does not apply to the watans validly alienated under the Baroda Watan Rules i.e. the holders of watan lands which have been alienated with the sanction of the Baroda Government will not be liable to the payment of nazarana amounting

to 20 times the assessment of the lands. Lastly, the entire section 4 does not apply to a watan land or village in respect of which the watan property consists of the whole or part of the land revenue of such land or village. This provision has been made to clarify the fact that watandars in respect of such watans had no right to the land or villages, but were only entitled to the land revenue thereof.

Provisions for payment of compensation are made in sections 5, 6 and 12 of the Act. Section 5 relates to compensation payable to the watandars for abolition of the cash haks. For hereditary allowances, the quantum of compensation is fixed at five times the amount annually payable to the watandar and for life-time allowances, it is three times the annual amount. The latter provision is in accordance with the provisions made in other Acts. As regards the former, a departure has been made from the usual quantum of seven times the amount. The reasons are that the allowances, though hereditary, were not permanent and were liable to deductions on account of service and succession (service and pedhi kapats). At each succession, the amount of the allowance was reduced according to the principles of pedhi kapats. As a result, the amount of the cash allowance was a gradually vanishing quantity. In order to provide for this tapering effect, the quantum of compensation has been provided at five instead of at seven times the amount payable to the watandar. Sub-section (2) of section 5 clarifies that the amount of the cash allowance on which the compensation should be calculated is the amount that was paid or payable to the watandar after the service and succession cuts. For example, the amount of cash hak was Rs. 100 as recorded in the Baroda records; but if it was subject to 8 anna deduction on account of service kapat, the watandar was paid Rs. 50 only. On this basis, he would get compensation amounting to Rs. 250 or Rs. 150 according as the allowance was hereditary or for his life-time.

We have seen that there were entire eleven watan villages in respect of which the watandars enjoyed land revenue. In such cases, the watandar would be entitled to compensation at

ten times the amount of the land revenue. Since the land revenue had been settled during the Baroda regime under the State rules of survey and settlement, the amount of land revenue was guaranteed for a fixed period. As a result, the land revenue received annually under the settlement would be taken as a basis for computing compensation under section 6.

Like other Land Reforms Act, section 12 provides for payment of compensation in transferable bonds redeemable during a period of 20 years at 3% interest in equated annual instalments of principal and interest. In the original Bill as published in the Gazette, the provision was for payment of compensation in transferable bonds repayable at the end of 12 years and carrying interest at 4%. But the change was made in view of the uniform policy laid down by the Government of India for payment of compensation for all the States of India. The change was for the better, because the watandar would under the amended provision get 1/20th of the amount of compensation annually. Besides, from the Government point of view, it would serve as a self-sinking fund and would check inflationary tendencies. It is not certain that the Government in power would continue the same policy regarding payment of compensation in future. And the whirligig of time may bring its own nemesis! In the circumstances, a bird in the hand is worth two in the bush! A watandar would prefer to receive something palpable and tangible, however small, to something which is variable and even vanishing in the unborn future!

Section 7 protects the leases of the watan lands to protected and ten-year tenants recognised under the provisions of the Bombay Tenancy and Agricultural Lands Act, 1948.

Sections 8 to 11 are routine provisions relating to the assessment and award of compensation for extinguishment or modification of other rights under the Act. One important point to be noted is about the fact that for imposition of full assessment on the watan lands wholly or partially exempt from payment of land revenue, a watandar is not entitled to any compensation. This provision has been based on the Federal Court decision in *Maharaj Kunwar Lalsing v. C.P. and Berar Government* (1944).

An appeal against the Collector's award lies to the Bombay Revenue Tribunal, as usual.

Under section 13, Government has framed rules regarding the value of the court fee stamp to be affixed to an appeal to the Bombay Revenue Tribunal, form of application to be made under section 8(2), etc.

Lastly, section 14 has repealed the Baroda Watan Rules, which governed the watans. But the repeal does not affect any obligation or liability already incurred or accrued or any proceeding in respect of such obligation or liability and any such proceeding may be continued as if this Act had not been passed. This is a saving clause.

In short, the Act follows the principal provisions of the Bombay Paragana and Kulkarni Watans Abolition Act, 1950 in so far as they relate to the paragana watans, with suitable variations to meet the peculiarities of the Baroda watans.

7. *Effects of the legislation.*

As usual, the consequences may be classified into

- (a) administrative,
- (b) financial, and
- (c) socio-economic.

From the administrative point of view, the measure has not cost anything to Government. The watans were already non-service and their abolition did not require any alternative administrative arrangements to be made in respect of the villages and scattered lands. As they are already surveyed and settled, Government is saved the cost on account of these operations. Thus, the defunct watandar is removed from the administration.

Financially, the measure has yielded substantial revenue to Government. The estimated receipts and expenditure are as follows:—

Receipts.		Expenditure.	
Recurring.	Non-recurring.	Recurring.	Non-recurring.
Rs. 39,800 (= 40,000).	Rs. 5,62,000	.....	Rs. 7,90,000

The watandars enjoyed villages and lands partially exempt from payment of land revenue. They have been made liable to payment of full assessment and this has yielded Government an additional land revenue of the order of Rs. 39,800. Government had to pay cash allowances amounting to Rs. 6,237 per annum. With their abolition, Government will not have to pay the same; but this is only a negative gain to Government.

The watandars are not deprived of the lands held by them; but they are entitled to the regrant of the resumed lands on payment of occupancy price equal to six times the assessment of the land on new and impartible tenure. If the lands are to be made transferable or partible, the watandar-occupant will have to pay nazarana at 20 times the assessment payable in six instalments within one year after the grant of permission by the Collector. On account of occupancy price alone, Government would get Rs. 5,62,000. Government will get nazarana only when the watandar desired to dispose of the land to another. The yield on this account will depend upon the necessity of the watandar.

As stated above, Government will not have to incur any expenditure on account of the administrative arrangements, because the Government agency is already managing the watan villages and lands.

Lastly, Government will have to pay compensation of the order of Rs. 7,90,000 under sections 5 and 6 of the Act. The payment is to be in bonds redeemable in equated annual instalment of principal and interest during a period of 20 years. The non-recurring expenditure (Rs. 7,90,000) will be cancelled out by the non-recurring receipts of Rs. 5,62,000 and the nazarana of 20 times the assessment. The net financial result of the legislation is that Government will have a recurring annual net receipt of Rs. 40,000 without any expenditure.

Lastly, the socio-economic effects on the class of watandars have been far-reaching, but not disastrous. The watandars are generally of the advanced classes like the Desais of Navsari and Gandevi, the Nagar Brahmins of Petlad, Visnagar and Vadnagar and the Patidars of Charotar and other Baroda areas.

For more than 50 years, the watans had become non-service and what little service was rendered was in the shape of deputing low-paid clerks to taluka offices. Many had sunk in debt even before the enactment of Rules in 1892, the main object of which was to rehabilitate the watandars as a class. Besides framing the Rules, Government gave preference to the watandars and their sons in the Baroda State service. As a result, these watandars, who were qualified for appointment in service, are already well settled in service and life and are not dependent upon their watans. The measure would affect those who have not read the signs of the times and solely banked upon the watans for livelihood. Such persons also will not be without means of livelihood, as they are entitled to regrant of the lands from the income of which they can still eke out their maintenance. This will, however, be possible only if they cultivate their lands personally and not otherwise. Recent amendments to the Tenancy legislation have already warned the non-cultivating rentiers in this matter. In the result, the watandars as a class will not be hit hard and their domesticity will not be abruptly disturbed; but they will be forced to adjust themselves to the new conditions of life. No class of society, however influential, can expect the State Government or the posterity to be burdened with the financial liabilities created by past Governments in favour of the privileged few.

CHAPTER VIII

THE MULGIRAS TENURE

1. *Introduction.*

The Mulgiras tenure obtained in entire ten villages and lands scattered in several villages of the old Amreli district of the former Baroda State. Before the district was ceded to Baroda in the beginning of the nineteenth century, it formed part of the Kathiawar States now formed into the States of Saurashtra. As a result, the mulgiras tenure found in Amreli had characteristics similar to those of the tenure obtaining in Saurashtra.

The term 'Mul-giras' means an original 'grass' (mouthful) lands held for maintenance. But its origin is traced to political conditions in Kathiawar. It is described as under:—

“As each tribe of Rajputs invaded the province (Kathiwar), its chiefs bestowed on their relations portions of lands they had won. This share was named their Kapalgiras and passed to the children of the original grantees. The enterprising Grassias acquired lands from their neighbours and added them to their possession. When they found themselves sufficiently strong, they separated from the parent stem and set up as independent rulers. Others, less fortunate or less enterprising, surrendered the greater portion of their lands to a neighbouring chief in return for protection and fell into the position of mulgrasias or original sharers*.

This origin is reflected in the meaning of the term 'Garashia' given by Wilson in his Glossary of Judicial and Revenue Terms. Girashias are defined as “the holders of garas lands or allowances for the most part Rajputs. The title of Girasia originally honourable, became at last as frequently a term of opprobrium conveying the idea of a professional robber”. In view of this political origin, the expression 'Mulgirasia' has been defined as under:—

* Bombay Gazetteer, Vol. VIII, pp. 315-316.

“A mulgirasia of the Amreli Prant is a person who holds a village or villages or a portion thereof as an original Garasia of the village after giving a portion thereof to the Gaekwar (defender) or his heir or successor”*. This definition has been incorporated in Rule 5 (क) of the Amreli District Mulgirasias (Adoption and Mutation) Rules, 1937, which generally governed the tenure. Besides, the Crown Grants Act and the Baroda Cash Allowances Rules of 1932 (chapter 15) regulated certain aspects of the tenure.

2. Statistical data.

The tenure covered ten entire villages and scattered lands all over the Amreli district. The entire villages were Ingorala, Chaebai, Kotda, Pania, Zar and Mithapur in Dhari taluka, Timbla, Nana Mandawada and Piplag in the Amreli taluka and Monpur in the Damnagar Mahal.

The statistical information is shown below, separately for the entire villages and scattered lands:—

	Area. in acres.	Assess- ment.	Judi or amount paid to Government.	Cash- haks.
	(1)	(2)	(3)	(4)
		Rs.	Rs.	
(1) Ten entire villages.	46,378	67,033	753 Ankdo and Desai Dasturi for Piplag, only.	
(2) Scattered lands ...	38,480	73,328	992 (judi).	5,022
Total ...	84,858	1,40,361	1,745	5,022

3. Historical background.

In the uncertain political conditions of Gujarat in the eighteenth century, the holders of these villages, who were mainly Kathis and Rajputs, were themselves freebooters. The Kathis loved plunder and cattle-lifting. When they were not engaged in depredations, they indulged in dissipation and revelry. They themselves were subject to depredations from the stronger neigh-

bouring chiefs like Bhavnagar. Owing to constant harassment, they were driven to seek protection of the Gaekwar, who agreed to do so. But as a price for the protection given by the Gaekwar, the Girasias had to give a portion of their estates and retained the remainder for themselves for maintenance. This portion came to be called "Giras".* They made peace with the Gaekwar and secured against such neighbours as the Bhavnagar Darbar. The Gaekwar granted 'parwanas' to the Mulgirasias from 1811 and 1816. According to the conditions laid down in the parwanas, the Mulgirasias agreed to render service (chakari) to the Baroda State. The service to be rendered was not nominal; but they had actually to act as police, keep peace, and furnish security for the proper behaviour of other people as well as of themselves. In this way, the Mulgirasias became the subjects of the Baroda State and their villages and lands became the integral parts of that State. They were never the bhayats of the Gaekwar but were like other Barkhali holders and never claimed settlement of any haks.

In short, they were not the grantees of the Gaekwar, but were the proprietors of their villages and lands with the result that they held their estates rent-free except in the case of Pip-lag whose Mulgirasia paid ankdo and Desai Dasturi to that State. No judi was payable for these villages and lands. But they were subjected to the levy of a local cess of one anna in a rupee of assessment of the lands. This levy had its origin in the Maji Jarif (old survey) of 1863. During the survey, it was noticed that the Mulgirasias were in possession of lands in excess of the area to which they were entitled. The Resident at Baroda was inclined to recognise such excess areas and grant sanads to the holders. But the Baroda Government was not agreeable to this. In deference to the wishes of the Government of India, after much correspondence, the Gaekwar decided in 1909 that the lands held at the time of the maji jarif in 1863 should be confirmed, as rent-free. At the time of this settlement, Government imposed a local cess of one anna in a rupee of assessment, which was similar to the local fund cess levied under the Bombay Local Boards Act. Thus, they came to be subjected to the local cess. At the time of abolition of

the tenure, the Mulgirasias paid to Government only local cess and ankado as well as 'Desai Dasturi' for the Piplag village. From the statistical data, it will appear that the resultant loss sustained by Government every year on account of revenue was considerable.

4. *Main incidents of the tenure.*

Now, it is proposed to briefly review the incidents of the tenure. Unless this is done, the laws and rules framed by the Baroda Government for its regulation cannot be understood in their proper perspective.

The main incident of the mulgiras tenure was that the mulgirasias were the proprietors of their villages and lands and were not grantees of the Gaekwar. In this respect, they were akin to the Talukdars of Gujarat with the result that in abolishing the tenure, the compensation payable to them has been based on the provisions of the Bombay Taluqdari Tenure Abolition Act, 1949. But unlike the Talukdars, they held their villages and lands entirely exempt from the payment of land revenue. But only in the case of the Piplag village, the mulgirasia used to pay 'ankdo' and 'desai dasturi' to the Gaekwar.

According to the custom amongst the Mulgirasias, the holders had co-sharers. Like the Mulgirasias, they had not to pay anything to the State. In every mulgiras village, there were certain usages or customs formed as regards levy of rents from the cultivators. Such customs were called 'shegas'. They were akin to the 'Dharayads' of certain talukdari villages in the Ahmedabad district or the Matadari estates in the Bawishi Thana. The Bhagbatai (crop-share) system obtained in all the villages. The Mulgirasias collected bighoti according to the shares fixed under the shegas in each village. From the entire ten villages, the annual income received by them was of the order of Rs. 75,000 and from the scattered lands or portions of villages of the order of Rs. 72,000.

Besides the collection of bighoti, the Mulgirasias enjoyed certain cash haks such as rights to shares in the produce from the waje lands, Mapa Hak, Taka Hak, Chirda Hak, Kothli Santh, etc. The Mapa hak was akin to the octroi duty recovered by the Darbars on agricultural commodities weighed on

threshing floor and on the import and export of those commodities. It was levied on other items such as ghee, oil, sugar, gur, chillies, raw wool, cotton-seeds, etc. The rate of the duty was in cash and kind. The Darbars auctioned out the Mapa hak to the highest bidder who recovered the duty according to the shega Patrak. The Taka haks were determined at the time of the settlement of the villages for surviving rights of the Darbars. The villages were made khalsa, but in commutation of their haks, cash allowances based on certain percentage of the right were sanctioned by Government. The cash allowances were paid after deducting the charges on account of village administration. On this principle, Chachai Pania Darbar received 50% of the village revenue after deducting village expenses. The Monpur Darbars received haks at varying percentages. These haks were commuted into money payments as percentages of collection and were recorded in the "Bin Bahendariwala Nimnookdar Girasia Lokoni Jantri" in the Baroda Barkhali Office. This commutation of the haks removed uncertainty and harassment in the levy and collection of these haks.

5. *The Amreli District Mulgirasias (Adoption and Mutation) Rules, 1937.*

It may be noted that there was not a single consolidated enactment which governed the tenure during the Baroda regime. The adoptions and mutations were governed by the special Rules of 1937. The cash haks were governed by the Baroda Cash Allowance Rules, 1932 and the Crown Grants Act was applicable generally. But the Rules of 1937 mainly governed the tenure. It would therefore be necessary to dwell upon the salient provisions of those Rules in order to appreciate the incidents of the tenure.

Rule 5 (ख) defined the 'mulgirasia property' as property which consisted of villages, or portions thereof or lands and all cash allowances.

Rules 7 and 8 postulated that Government permission should be taken before adoption. At the time of adoption, a nazarana of Re. 0-2-0 in a rupee was cut permanently from the amount of the cash allowance (e.g. Mapa Hak, Taka Hak, etc.).

If the mulgiras consisted of a village or a portion thereof, a permanent nazarana of 2 annas in a rupee of assessment was levied, if the adoptee was from the same family; but if he was an outsider, a nazarana of 4 annas in a rupee of the assessment was charged.

If the mulgiras property was alienated by mortgage, sale or gift or passed unlawfully in possession of others, the giras village was liable to be made khalsa (Rule 12). But before the abolition of the tenure, no such land was probably resumed by the Baroda State. That was presumably due to the political expediency and exigencies of administration.

Besides the above, the Baroda Government was compelled to frame Rules in 1921 for purchase of the Girasia's land by Government for redemption of the Mulgirasias' liabilities. As noticed before, the Mulgirasias as a race were backward, illiterate and indigent. Because of their spendthrift nature, huge debts were created by them. They became inextricably involved in the net of the sahkars. With a view to liquidating their liabilities, Government framed special rules* in 1921 under which their lands were purchased by Government at an amount not less than 20 multiples of the assessment. Out of the sale-proceeds of the lands, the claims of the sahkars were paid off. As a matter of grace, Government allowed the lands so purchased to continue in the possession of the Mulgirasias as khalsa land on payment of full assessment. All rights of the Mulgirasias were, however, extinguished after the purchase of the lands by Government.

6. *Case for abolition.*

From the history of the tenure, it is clear that the Gaekwar continued the Mulgirasias in possession of their villages, lands and cash haks as a matter of

- (a) political expediency,
- (b) the geographical position of the villages, and
- (c) the turbulent character of the Kathis and the Rajputs.

* અમરેલી પ્રાન્તના મુળગરાસીઆની જમીનો સરકારથી ખરીદવા સંબંધી નિયમ અને ઉપનિયમ (1921).

From Baroda, Amreli was a far cry for the Gaekwar in those days of the early nineteenth century of political instability and lack of transport facilities. Subsequently, the machinery of administration had been re-organized and the means of transport revolutionized. After the merger of the Baroda State in 1948, the political and administrative conditions changed completely. The Mulgirasias and the privileged tenure outlived their utility and were reduced to the position of administrative anachronism. In furtherance of its policy to abolish all exemptions from payment of land revenue and alienations in the State, Government decided to abolish this tenure. With this objective, the Minister for Revenue (Shri B. S. Hiray) brought a Bill before the budget session of 1953. The Bill was passed without any amendment by both the Houses of the Legislature except the general amendment regarding payment of compensation in transferable bonds.

7. *The Bombay Merged Territories (Baroda Mulgiras Tenure Abolition) Act, 1953.*

Since the Mulgiras tenure was in the old Amreli district of the former Baroda State, the Act applies to that area only. It covers 10 villages specified in the schedule to the Act and lands scattered all over that district. It has been brought into force with effect from the 15th August 1953 by a Notification in the Bombay Government Gazette.

Section 2 contains definitions. The expression "Ankdo" has been defined as a lump sum paid annually by a mulgirasia to Government as revenues and other haks in respect of villages held by him. This has reference to the Ankda of Rs. 719-5-0 and Desai Dasturi of Rs. 33-12-0 paid by the Mulgirasia of Piplag.

The term 'cash hak' has been defined as a cash allowance received by a Mulgirasia in commutation of haks known as Chirda hak, Mapa Hak, Taka Hak or Kothali Santh under the laws and rules of the Baroda State before its merger on 30-7-1949.

The definitions of other words given in the section are self-explanatory and need no comment.

Sections 3 and 4 are very important in the whole Act.

Section 3 abolishes the mulgiras tenure from the old Amreli district, terminates the Mulgirasia's right to receive any cash hak and extinguishes any other incidents of the tenure. Now, the Mulgirasia has not to pay any 'ankdo' or dues formerly payable as an incident of the tenure. All the mulgiras lands, which were exempt from payment of assessment have now been subjected to payment of full land revenue under the Land Revenue Code and the Rules thereunder.

Section 4 confers occupancy rights on

- (a) a mulgirasia in respect of his mulgiras lands,
- (b) a co-sharer of mulgirasia in the case of land held by such a co-sharer in the mulgiras village, and
- (c) the mulgirasia or his co-sharer holding mulgiras land.

Thus, the mulgirasia and his co-sharer only are recognized as occupants within the meaning of the Code and the remaining cultivators will continue as permanent, protected or ordinary tenants, as the case may be.

Section 6 vests in Government all unbuilt village-site lands, all waste lands and all uncultivated lands (excluding lands used for building or other non-agricultural purposes) and other public properties specified in section 37 of the Land Revenue Code. Explanation to the section clarifies the meaning of 'uncultivated lands' as lands which have not been cultivated for a continuous period of three years immediately before the coming into force of the Act. Thus, the lands, which have been put to non-agricultural use, will not vest in Government. Lands under any industrial plant or building will be saved under this section.

Section 7 vests in Government the rights to trees specially reserved under the Indian Forest Act, 1927 or any other law in force. It saves the rights to trees of persons to whom they were transferred by Government under any contract, grant or law in force. Thus, there is no general vesting of trees in Government. However, Government is empowered to apply the provisions of the Indian Forest Act, 1927 to any forests in the mulgiras village or land.

Compensation.

Sections 5, 8, 15 and 16 provide for compensation for extinguishment or modification of any rights of a mulgirasia, his co-sharer or any other person.

It has been stated above, that the mulgirasias were entitled to certain haks like Mapa Hak, Taka Hak, and Chirda Hak from the villages. They were commuted into cash during the Baroda regime and were paid out of the Government treasury. These haks had become hereditary. For abolition of these haks, compensation has been provided at seven times the amount of the cash hak on the analogy of similar provisions in section 6 of the Bombay Paragana and Kulkarni Watans Abolition Act, 1950.

Provisions of section 8 follow the provisions of section 7 of the Bombay Taluqdari Tenure Abolition Act. As they have been dwelt upon at great length at a previous stage,* it is not necessary to repeat here the explanation given therein. However, the provisions may be classified as under:—

<i>Property acquired.</i>	<i>Quantum of compensation.</i>
(1) waste or uncultivated	... compensation not to exceed three times the assessment of the land. If the land is unassessed, the assessment basis should be of the assessed land in the vicinity.
(2) lands used by the public	... one assessment of the land.
(3) trees or structures on the land	the market value thereof according to sections 23(1) and 24 of the Land Acquisition Act, 1894.

Section 15 provides for the method of compensation for the extinguishment or modification of any other rights of any person, who could prove that such extinguishment or modification amounted to the transference to public ownership of such land or any right in or over such land. This is a residual provision made in order to cover cases which have not been specifically provided in the Act.

Lastly, the amount of compensation shall be payable in transferable bonds carrying interest at 3% and repayable during a period of 20 years in equated annual instalments of principal and interest.

* Author's "Agrarian Reforms in Bombay", chapter on Talukdari Tenure

Sections 9 to 15 provide for inquiry into the claims to compensation, assessment and award of compensation by the Collector or any other officer appointed by Government. These provisions are analogous to the provisions made in other Land Tenure Abolition Acts. They are self-explanatory and there seems no need to labour the obvious.

Section 17 provides that the relations between landlords and tenants in the mulgiras villages shall continue to be governed by the provisions of the Bombay Tenancy and Agricultural Lands Act, 1948, unless they are inconsistent with the provisions of this Act. This provision safeguards the interests of the protected and ordinary tenants.

Section 18 empowers Government to frame rules for carrying out the purposes of the Act. Accordingly, Government has prescribed Rs. 3 as the value of the court-fee stamp to be affixed to the appeal to the Bombay Revenue Tribunal and has framed rules regarding the denominations of the bonds for compensation and the form of application for compensation.

Lastly, the Amreli District Mulgirasias (Adoption and Mutation) Rules, 1937 of the ex-Baroda State and any other law regulating the tenure are repealed. But their repeal would not affect any obligation or liability already incurred, any proceeding in respect of such obligation or liability and any such proceeding may be continued as if this Act had not been passed.

8. *Effects of the legislation.*

Although the tenure covered comparatively small area in the old Amreli district, its effects on the administration and the socio-economic conditions of the Mulgirasia community will be far-reaching.

On the administrative side, it may be noted that the survey and settlement were not introduced in these villages and lands and that the shares of the Mulgirasias and their co-sharers were fixed according to the mutual arrangements based on the shegas. As a result of the abolition of the tenure, Government will have to introduce the survey and settlement and its concomitant, the Record of Rights. Since the intermediary mulgirasia has been removed from the village administration, Gov-

ernment will have to appoint village administration consisting of talatis, patels and inferior village servants. The recurring cost on account of these administrative arrangements is estimated in the neighbourhood of Rs. 3,600 per year.

Financially, the annual gain to Government would be considerable. Mulgiras lands which were wholly exempt from payment of assessment have been made liable to payment of full assessment. Consequently, there will be an annual increase of land revenue of the order of Rs. 1,39,000. Against this, Government will have to pay compensation for abolition of the cash haks and vesting certain types of lands in Government under section 6 of the Act. For abolition of the cash haks, the compensation is payable at seven times the annual amount of cash haks (vide section 5). Government will have to pay compensation amounting to Rs. 35,000 on this score. The compensation payable on account of the lands vested in Government cannot be estimated in the absence of the information regarding the extent and the category of lands so vested in Government. Since such lands would be generally in the ten entire villages, the amount of compensation payable on this account will not be considerable. The financial effects of the legislation according to the available data are as under:—

Receipts		Expenditure	
Recurring.	Non-recurring.	Recurring.	Non-recurring.
Rs. 1,39,000	...	Rs. 3,600	Rs. 35,000 (for cash haks only)

Even on the above statistical basis, Government is likely to gain more than Rs. 1 lakh every year even after meeting the recurring expenditure on account of the village administration. And it is to be remembered that the compensation is made payable in transferable bonds repayable at the end of 20 years. In the result, the cost of compensation and introduction of survey and settlement will be spread over certain number of years and will not have to be incurred in lump in one year. It will

thus be clear that in abolishing the intermediaries, the measure has yielded a substantial revenue to Government.

Lastly, the effects on the socio-economic conditions of the Mulgirasias would be considerable. The Mulgirasias, who are mainly Kathis, are generally illiterate and backward. Agriculture is the staff of their life. An average khata (holding) consists of 50 bighas of land, which is the minimum required for the maintenance of a family. The assessment varies from Rs. $1\frac{1}{2}$ to Rs. $2\frac{1}{2}$ per bigha. Taking $1\frac{3}{4}$ bighas as one acre, the average assessment per acre would work out to Rs. 4. As a result of the abolition of the tenure, a holder of 50 bighas has become liable to the payment of full assessment of the order of Rs. 100 per year. The Mulgirasias follow generally no profession other than agriculture. They have a hand-to-mouth existence. It is, therefore, alleged that they will find it difficult to pay the assessment, which is high. To this, it may be urged that the assessment had been fixed long ago during the Baroda regime on the basis of the land values and it is not proper to contend now that it is high. These 'Darbars' should adjust themselves to the new conditions of life. Government cannot make a distinction between the Mulgirasias and other tenurial holders, who have been subjected to the payment of full assessment on extinguishment of the privileged tenures. The Darbars may perhaps be ruthlessly awakened from their economic torpor and may be driven to direct their energies to pursuits other than agriculture.

CHAPTER IX

THE SALAMI TENURE

1. *Introduction.*

The salami tenure was found only in the Okhamandal Taluka of the Amreli District. Like the Talukdari, Ankadia and Khoti tenures, it did not cover entire villages but only parcels of lands in the villages of one taluka. It arose out of the administrative difficulties experienced by the Gaekwar in controlling from its capital, Baroda, the turbulent tribes of Waghers, Wadhers and other cognate tribes of that taluka. It was called the salami tenure: because the holder of the land had to pay only one rupee for 48 bighas of land by way of a token payment (salami) for acceptance of the sovereignty of the Gaekwar. The nominal payment of salami of Re. 1/- was not related to the assessment of the land, which varied from Rs. 2-12 to Rs. 3-3 per acre. This feature distinguished this salami tenure from other salami lands in other merged areas.

The Okhamandal taluka is situated in the extreme west of the Amreli district. It is a peninsula and, except one village, is a compact block. The rainfall is very scanty (13") and the soil is sandy and saline. According to the original settlement report of the taluka (para 10), there are three orders of the soil, viz., black, light sandy and reddish. On the whole, none of the orders of these soils is rich. All orders are poor. The land values are also very low. In 1930, an acre of land was valued at 8 annas only. This soil factor is very important in consideration of the salami tenure and its holders, the Waghers and the Wadhers.

2. *The human factor.*

The taluka is populated principally by the Waghers, Wadhers and other cognate tribes. The Waghers are partly Hindus and partly Muslims. By temperament, they are restless, turbulent and impatient of control. By occupation, they were first fishermen, then pirates and free-booters and now

they have been reduced to the position of landholders, fishermen and sailors.

The land revenue is payable in cash since 1918. There were only two systems of land revenue, viz., the Bhog and the Salami. Under the Bhog tenure, the cultivators have to pay full assessment of the land. The Salami tenure was applicable to the Waghers, Wadhers and other cognate tribes. Under this system, they had to pay to Government only a nominal salami of Re. 1/- per every santi of 48 bighas of land held by them. In 1932, the salami lands occupied by these tribes were 31,458 bighas. In 1953, there were 36,000 bighas of lands on the Salami tenure held by 10,000 Waghers. The Waghers paid Salami of Rs. 675/- for the lands assessed at Rs. 12,800/-. Thus, Government had to undergo a loss of Rs. 12,125/- per annum.

3. *Historical background.*

The origin of this tenure is traced back to the uncertain political conditions of Okhamandal and the piratical and bellicose temperament of the Waghers. In consequence of a treaty, the British ceded to the Gaekwar the Okhamandal area in 1817. In 1818, the Waghers rose in rebellion against the Gaekwar. The rebellion was quelled. It is on record that these Waghers rebelled against the Baroda Government six times between 1818 and 1861. After their defeat in 1861, Lieut. Barton was placed in charge of Okhamandal. He accepted surrender of arms from the Waghers. With few exceptions, the Waghers and their chiefs were deprived, for ever, of their giras possessions and pensionary allowances. Hitherto, they had cultivated their giras holdings rent-free, but they were then required to pay annually a salami on any land allotted to them. In consequence of this political arrangement, the Salami land tenure arose in Okhamandal. In approving this arrangement, the Resident at Baroda observed as under:—

“You are aware that I have more at heart the addiction of the Waghers to agricultural industries than the exaction of rent from them and I trust, therefore, you will interpret the engagement into which they have now entered in the most liberal manner for them and that you will consider the land tax they pay rather as a fund out of which advances on good

securities may be made to them for the purchase of seed, corn and cattle for their ploughs than as a source of revenue for the State”.

Accordingly, the Waghers were allowed to cultivate as much land as they could on payment of rent at the rate of Re. 1 per santi and four annas for each wadi. Thereafter, between 1872 and 1875 sanads were granted to the Waghers subject to certain conditions. No sanads, however, were issued after 1875. The main terms of the sanad were as under:—

- (1) The holder should remain loyal to the Gaekwar.
- (2) He should not commit robberies or create disturbance of any kind or harbour any thief or rebel.
- (3) He should pay Re. 1/- per santi of lands and four annas for each wadi.
- (4) The salami land should not be alienated either by sale or mortgage to outsiders.

The sanad contained a solemn promise that the grant was hereditary i.e. “to you and your heirs from generation to generation on payment of nazarana on each death.”*

On these principles, Government framed the Rules for regulating the tenure. From the administrative arrangement of Barton and the terms of the sanad, it is clear that Government wanted the Waghers to give up their predatory and piratical propensities and to settle down on the lands by beating their swords into ploughshares.

Sir T. Madhavrao visited Okamandal in 1880 and examined the working of the Wagher land tenure. He emphasised that the granting or continuing of the salami land was a favour of Government and not a matter of right of the Waghers.

4. *The Salami Land Rules.*

Subsequently, certain complications arose in administration of the tenure with the result that in 1911, the Rules were revised particularly those regulating succession, transfer, exchange, etc.

* For form of sanad, please see Appendix D at pages 85-86 of the printed Note on Okhamandal issued by the Baroda State.

The main features of the tenure as determined under the Rules were as follows:—

- (1) Every Wagher was entitled to hold one Santi of 48 bighas of land (Rule 1).
- (2) He was entitled to have additional land on Bhogami tenure (Rule 6).
- (3) Except by inheritance, the transfers of Salami lands were prohibited (Rule 8).
- (4) Succession to salami land was limited to lineal male heirs only, with two exceptions:
 - (a) on a Wagher's death, a portion of the land was allowed to his widow or widows under rule 13, and
 - (b) when a Wagher died leaving no lineal male heir, his collateral heirs, who were in the direct line of descent from the original grantee, were entitled to succeed to the salami land of the deceased, except that the total area of his holding should not exceed one santi of salami land, etc. (Rule 10).
- (5) Persons taking up salami land of a deceased Wagher were liable for the arrears of revenue or other Government dues (Rule 14).
- (6) A nazarana of Rs. 10 per santi was levied on succession (Rule 15).
- (7) The salami lands were liable to be resumed in the following circumstances:—
 - (a) on breach of any conditions of the tenure;
 - (b) on conviction for rebellion or outlawry against Government; and
 - (c) on account of misconduct of the holder or his inability or neglect to cultivate it continuously for three years (Rule 16).

It is thus clear that the exemption from payment of full assessment was the only right enjoyed by the Waghers. No responsibility seems to have been attached to this concession.

Even though the Waghers had to pay only one rupee per santi of 48 bighas, they were economically not better off under

the privileged tenure. This will be apparent from the large amounts of arrears of land revenue and tagavi shown below:—

	1930	1953
(a) Area of land held in bighas ...	44,094	36,000
(b) Amount of arrears of land revenue and tagavi ...	38,523	Rs. 1,96,000 (L.R.) Rs. 4,53,000 (Tagavi).

The arrears were attributed to the lethargic habits of the Waghers, scanty rainfall (13") and sandy and saline soil.

From 1861 to 1920, the Okhamandal area was under the administration of the British. In 1920, the administration was handed over to the Gaekwar. Under that administrative arrangement, the salami tenure was to be continued for a further period of 30 years i.e. upto April 1950, subject to reconsideration of the position, thereafter.

From the foregoing review, it is clear that the land tenure arose out of the law and order problem created by the turbulence and pugnacity of the Waghers and the weakness of the Gaekwar's administration. As regards the first factor, by the passage of time, the Waghers have mellowed down and taken to agriculture and fishing, and the second factor regarding the administrative weakness of the Baroda Government has not survived in the new set-up. In this background, the circumstances, which created the privileged tenure were practically non-existent. The question whether it benefited the Waghers economically or not is an issue which is not quite relevant to the continuance or otherwise of the tenure.

5. *The Bombay (Okhamandal Salami Tenure Abolition) Act, 1953.*

In the circumstances stated above, instead of continuing the tenure for a further period, Government decided to abolish it in furtherance of its policy of abolishing all exemptions from payment of land revenue. In the last autumn session, the State Legislature passed a Bill* to abolish the Salami tenure. It is called the Bombay (Okhamandal Salami Tenure Abolition) Act, 1953 which is to be brought into force with effect from 1st August 1954. The Act is very simple. It has abolished the tenure with all its incidents and the holder of the Salami land is recognised

* L. A. Bill No. XLVIII of 1953.

as an occupant within the meaning of the Bombay Land Revenue Code. All the sanads or grants under which the salami lands have been granted are cancelled. The Salami Land Rules are repealed.

6. *Financial implications.*

Under this legislation, no alternative administrative arrangements were required to be made by Government; because the tenure related to parcels of lands and not to entire villages. Besides, Government had not to pay any compensation under this Act. Before the abolition of the tenure, the Waghers used to pay to Government only Rs. 675 per annum as salami. Now, they are liable to pay full survey assessment which works out to Rs. 12,800, thus yielding a net increase of Rs. 12,125 as revenue. But on the floor of the House, the Revenue Minister announced the Government decision to the effect that having regard to the poor economic condition of the Waghers and the liability of the tract to recurrent scarcity, Government did not desire to levy full survey assessment, but only 4 annas per acre for some time to come. Accordingly, at the rate of 4 annas per acre, the Waghers will now have to pay Rs. 7 per year for 28 acres (48 bighas). It is however a question whether these Waghers, who fell into arrears of land revenue and tagavi, even when they had to pay only Re. 1 for 48 bighas, would be able to pay Rs. 7 per year for the santi of lands held by them. But they cannot claim exemption from the operation of the general policy of Government on the ground of their poor economic condition and scarcity conditions of their tract. They should adjust themselves to the new conditions of life and search for pastures new.

CHAPTER X

THE KAULI AND KATUBAN TENURES

1. *Introduction.*

The Kauli and Katuban tenures were found only in the districts of Kolaba, Ratnagiri and Kolhapur. They were the products of the peculiar geographical conditions prevailing in the Konkan; and were the legacy of the past administrations of the States of Janjira, Sawantwadi and Kolhapur.

The expression 'Kaul' ordinarily means an agreement. In his Glossary of Judicial and Revenue Terms, Wilson defines a 'kaul' in revenue transactions as 'a document granted by a collector, proprietor or receiver of revenue to a subordinate payer of revenue or the actual cultivator stating the terms of agreement and the amount to be paid and securing him against further demands.' It frequently implied that the contract or the lease was granted on favourable conditions, as in the case of cultivation of waste lands for which remission of rent was granted for a given period. Lands which were granted under, and the assessment of which was regulated by kauls were called kauli lands. The kauls were either simple or 'mafi istawa'. Under the former class, the grantor undertook to levy assessment at a certain fixed rate and under the latter, the lessees were free from payment of assessment for some years and then partial assessment was fixed beyond which it was not to be raised. Some of the Sawantwadi kauls and katubans furnished instances of the mafi istawa. According to Dandekar, such kauls or leases were instances of a right in limitation of Government's right to assess any land at its discretion*.

The term 'katuban' means fixed rent or assessment not liable to fluctuation. In the eighties of the last century, there arose a controversy with regard to the meanings of the terms 'kauls' and 'katubans'. After much investigation into the conditions of many kauls and katubans, Government decided† that the terms were synonymous. In one case decided by the

* Dandekar : Law of Land Tenures, Vol. I, p. 32.

† G. R., R. D. No. 513 dated 29th January 1880.

Bombay High Court in 1895, a katuban has been referred to as a lease in which a lessee agreed to pay annually a certain fixed sum as assessment, which could not be increased in consequence of the revision settlement.* This decision supports the Government view that, for all practical purposes, both the expressions were synonymous. As a result, the distinction between those terms disappeared after 1880.

As stated above, the tenures were found in the districts of Kolaba, Ratnagiri and Kolhapur only. The Kauli tenure was found in 33 villages of the Alibag, Pen, Khalapur, Roha, Mangaon and Mahad talukas of the Kolaba district and 162 villages of the Janjira State merged in that district. The Kauli and Katuban tenures were prevalent in about 252 villages in the Malwan, Deogadh, Khed, Dapoli, Rajapur, Mandangad, Chiplun talukas and the Kankavli and Vengurla Mahals in the Ratnagiri district and 21 villages of the ex-Sawantwadi State merged in that district. The Katuban tenure was also found in the three villages of the ex-Kolhapur State. One important fact about these tenures was that there were no entire villages on these tenures but only scattered lands in the coastal and rugged tract of the Konkan. Secondly, like the Talukdari and Khoti tenures, they were not governed by any special law or enactment but by the kauls or katubans. Many leases dated back to the period commencing from the rule of the East India Company. They were, therefore, originally governed by section 2, clause 1 of the Regulation XVII of 1827 and, thereafter, by the provisions of the Land Revenue Code. The right of the State to levy land revenue was asserted as far back as 1827 by the afore-said Regulation and the same provisions were re-enacted in section 45 of the Code.

2. *Historical background.*

The origin of the tenures is to be traced to the peculiar conditions of the soil of the Konkan. The coast is uniformly rocky and broken and its hinterland is hilly and rugged. During the regime of the Peshwa, attempts were made to bring as much land under cultivation as possible by offering easy terms and by granting leases wholly free from payment of assessment for a

* *Sarvotamrao Nilkanth v. Dhondo Vithal Karando*, P. J. 1895, p. 426.

particular period. In cases where the rent or assessment was levied, it was a fixed amount generally lower than the survey assessment of the lands. This policy was continued by the British, when they took over from the Peshwa in the beginning of the nineteenth century. We have seen earlier that this policy gave birth to the Salsette Khoti system in the Bombay Suburban district and Thana district. That system was, however, related to the entire villages; but the leases, which were granted in respect of the lands on the Konkan coast and its hinterland covered only parcels of lands scattered over several villages. However, the purpose of both the leases was the same, viz., bringing of waste and uncultivated lands under cultivation.

In order to appreciate the incidents of the tenures in the different districts, it is proposed to deal with the tenure district-wise.

To begin with, in the Kolaba district, the Kauli tenure was prevalent particularly in the villages of the Janjira and Bhore States interspersed with the villages of the pre-merger Kolaba district. The kauls were generally in cash, except in one case of Dasgaon in the Mahad taluka, where the kauli assessment was fixed in kind. It should be borne in mind that the kauli assessment was generally less than the survey assessment of the lands. But only in a very few cases, the former exceeded the latter.

In the former Janjira State, the kauli lands were of two kinds, viz., (1) cash kauli and (2) *ainjinnas* kauli (in kind). The cash kauli assessment varied from Rs. 2/- to Rs. 5/- per bigha and the kind assessment was 5 maunds of paddy per bigha. The lands were surveyed and settled and the Record of Rights was introduced at the time of the Revision Settlement in 1926-27. The Janjira State treated the kauldars as the occupants of the lands; but they could not sell, mortgage or otherwise alienate lands without the permission of the Nawab. The necessary permission to alienate these lands was given on payment of *nazarana* and full survey assessment to Government. After the sale of the lands, the kauli tenure was converted into the *dhara* or the *ryotwari* tenure. The kauli sanads do not seem to have been granted by the State; but from the Kauli Patrahs of the State, it seems that the kauls were granted

hereditarily (अवलाद अवलादी कौली शर्तीने) and, that as recorded in the case of Nagdi village (taluka Mhasla), the lands leased were not to be resumed by Government, even if they were not cultivated for any reason (कोणत्या कारणाने लागवड न झाल्यास परत घेतली जाणार नाही). From these entries, one may presume that the kauls were permanent for all practical purposes.

In regard to the kauli lands in the villages of the ex-Bhor State merged in the Kolaba district, the kauls were permanent and were granted for improvement of lands. (They are all paddy lands at present). Except in a few cases, the kauli assessment was lower than the survey assessment.

In short, the main objective of the kauls in this district was the improvement of the waste, uncultivated and uncultivable lands.

In the Ratnagiri district, the Kauli and Katuban tenures were prevalent in more than 250 villages of the pre-merger district and 21 villages of the Sawantwadi State merged in it. In the old Ratnagiri district, the East India Company granted certain leases for plantation of co-conut trees between 1815 and 1821. At the time of the survey, such lands were classified according to the special rules framed for the Ratnagiri district. The tree-factor was taken into consideration by the Survey Department.* Accordingly, a tree-tax at varying rates was levied on these lands. Generally, a Kauli rent of four annas per fruit-bearing coconut tree was charged from the kauldar. In some cases, the kauli rent was not fixed, and in the case of some lands, the trees planted being young and not bearing fruits, a nominal rent (kauli assessment) was recovered. However, a rent at the rate of 4 annas per tree was charged soon after the tree began to bear fruits. The amount of the tree-tax depended on the number of fruit-bearing trees in land. If the number was large, the tree-tax was in excess of the survey assessment; but if it was not large, the tax was less than the survey assessment. In order to check up the fruit-bearing condition of the trees, an annual inspection of the lands and the

* Gordon, R. G.: Survey and Settlement, Vol. II pp. 337-38.

trees thereon was made and a census of trees bearing and not bearing fruit was specially taken.

Besides the leases of lands for coconut plantation, it is noticed that occupants* of certain lands of poor quality represented to Government that if they were let out to them on a fixed rent (katuban), they would bring them under cultivation. Having regard to the amount of capital and labour required for full utilisation of the lands, Government granted their requests and fixed the rent lower than the survey assessment. The katubans declared that the lands were to be enjoyed hereditarily from father to son, that no new leases were to be expected, and that the fixed assessment would cover any new plantations of coconut, betelnut or any other crop. Essentially, the katubans were for agricultural purposes only.

During the original settlement of the Malwan taluka of this district, a question was raised whether these lands were liable to full survey assessment. Inquiries revealed that the kauldars had to cultivate and enjoy the lands hereditarily on payment of a perpetual fixed rent. As a result of those inquiries, it was decided that the leases were permanent and that the rent (assessment) fixed was not to be revised.† This exemption from payment of full land revenue was operative so long as the use was agricultural; but when they were converted to non-agricultural use, they became liable to non-agricultural assessment under the Land Revenue Code.‡

From the scrutiny of the katubans of the old Ratnagiri district, the following salient facts emerge:—

- (a) The katuban lands belonged to the katuban holders.
- (b) Government remitted a portion of the survey assessment as an incentive to fuller utilization of lands.
- (c) The katubans were hereditary.
- (d) The tree-tax or the kauli assessment was generally below the survey assessment.

In the Sawantwadi State, the leases were granted not for plantation of trees but for reclamation of the poor soil. Except in a few cases, the kauli assessment was less than the survey as-

* Government Gazetteer of Ratnagiri district, p. 261.

† G. R., R. D. No. 513 dated 29th January 1880.

‡ G. R., R. D. No. 1483/28 dated 16th November 1928.

assessment. In some cases, the lands were not subject to any assessment, whether kauli or survey. The Record of Rights in respect of these lands was not prepared. For all practical purposes, the leases were hereditary; but the katuban lands were not "freely transferable without a re-acrual to the State of its right to assess a full land-tax."*

Lastly, in the Kolhapur district, the katuban tenure obtained only in three villages of the Ajra mahal of the ex-Kolhapur State. The katubans were hereditary. The katuban assessment was lower than the survey assessment in all cases. These lands were surveyed and settled during the State regime; but the Record of Rights was not introduced. The lands were contiguous to the similar katuban lands of the ex-Sawantwadi State. In consequence, they had incidents similar to the lands of that State (Sawantwadi).

It will be clear from the above survey that the kauls and katubans were granted for twin purposes, viz.,

- (1) improvement of poor soil and
- (2) plantation of coconut trees.

In order to achieve these objectives, Government contented itself with rents which were designedly fixed lower than the survey assessment. The leases were obviously for agricultural purposes only and were either hereditary or permanent. The holders of katubans in the old Ratnagiri district were occupants of the lands, as expressly stated in the Bombay Gazetteer of the district. In other cases, where they were not expressly referred to as occupants, the holders had become virtually occupants in consequence of their century-old uninterrupted possession of the lands. This fact cured any defect of title to occupancy. In view of this administrative background, Government recognised all such holders of leases as occupants within the meaning of the provisions of the Land Revenue Code in the legislation enacted for their abolition. This aspect will be considered while dwelling upon the provisions of the legislation.

3. *Case for abolition.*

It may be recalled that the kauls and katubans were granted for plantation of coconut trees and reclamation of the poor

* G. R., P. D. No. 4412, dated 15th July 1890.

soil in the Konkan on payment of a fixed low rental. In those days of the early British regime, Government was anxious to receive stable revenues without much difficulty. With this object in view, the kauls and katubans were granted to cultivators as a stimulus to better cultivation and tree-plantation in areas where crops could not be raised or could not be raised without disproportionate labour and cost. With the passage of a period of over a century, the lands under the kauls developed, and the incentive of a fixed low rental lost its *raison d'être*. In furtherance of its general policy of abolishing all exemptions from payment of land revenue, Government decided upon the abolition of these tenures by legislation. In implementation of this policy, the Revenue Minister introduced a Bill to abolish the tenures in the budget-session of 1953, which was passed by both the Houses of the Legislature without any amendment. It was brought into force with effect from the 15th August 1953.

4. *The Bombay Kauli and Katuban Tenures Abolition Act, 1953.*

The legislation is very simple enough, as it extinguishes only the right of the kauldars to the exemption from payment of land revenue. It applies to the districts of Kolaba, Ratnagiri and Kolhapur.

Section 2 contains definitions. The definitions of 'kaul holder' and 'permanent holder' are important. A kaul-holder is defined as a person holding land under a kaul or katuban. A permanent holder is defined as a holder of kauli or katuban land to whom such lands have been lawfully transferred as a purchaser or who lawfully holds such lands as dhara lands, on payment of fixed rent or assessment. The definition is meant to cover cases in which land has been transferred to such permanent holders.

Section 3 cancels all kaul and katuban leases and the incidents associated with those leases are extinguished. The tree-tax levied on trees in the Ratnagiri district in lieu of survey assessment is abolished.

Under section 4, all these lands are made liable to payment of full survey assessment under the provisions of the

Land Revenue Code and the Rules thereunder. All the holders are recognised as occupants, viz.,

(1) a kauldar in respect of the kauli lands in his actual possession or in possession of any person holding through or under him, e.g. mortgagees or lessees,

(2) a permanent holder to whom such lands have been lawfully transferred.

It should be noted that the kauldars are not dispossessed of the lands held by them. This provision has been made, because the holders were already occupants or virtual occupants of the lands by uninterrupted possession of over a century.

Section 5 vests in Government waste lands which could not be appropriated by the kauldars before 4th March 1953 on which the Bill was published in the Government Gazette. It is understood that in view of the scattered character of the lands, lands likely to vest in Government under this section may be practically negligible. Consequently, the extent of the public properties referred to in section 37 of the Land Revenue Code may also not be considerable.

Section 6 declares that the right to trees reserved by the Code, the Indian Forests Act, 1927, or any other law in force shall vest in Government. Government is empowered to apply to forests in these lands the provisions of the Indian Forests Act, 1927. It is understood that there are no forest areas in any kauli lands but this provision seems to have been made to meet any contingency that may arise in implementation of the Act.

Sections 7 to 9 relate to payment of compensation. As usual, the Collector or any other officer appointed by Government has to assess and award compensation. Compensation for extinguishment of any right in waste lands which have vested in Government under section 5 is to be calculated at a rate of Rs. 25 per 100 acres of such lands. But as there will be hardly any lands of this type, Government will not have to pay any compensation on this account. For abolition of any other right (which is not likely), the Collector has to assess compensation under the provisions of sections 23(1) and 24 of the Land Acquisition Act, 1894. But it has been expressly provided that no compensation is payable for imposition of full assess-

ment on extinguishment of exemption of land revenue. Like other enactments, this Act provides that compensation shall be payable in transferable bonds repayable during a period of 20 years in equated annual instalments of principal and interest and carrying interest at 3%.

The remaining sections provide for appeal to the Bombay Revenue Tribunal, as usual. The provisions are clear and there is no need to labour the obvious.

Government has framed rules under the Act.

5. *Effects of the legislation.*

The effects of the legislation from the point of view of the holders are not likely to be far-reaching; because they are not to be dispossessed of their lands but will have to pay survey assessment which is a little more than the kauli assessment or rent they used to pay before.

Many lands are not surveyed and settled. As they are scattered and not extensive in area, the cost on account of survey and settlement will not be considerable. But from the point of administration, they have been a snag in the proper settlement of the land revenue according to the general principles of survey and settlement. The Act removes that snag not only from the settlement operations but also from the schemes of consolidation of holdings introduced by Government.

Financially, Government is likely to have a net recurring gain of Rs. 5,000 every year without having to pay anything on account of compensation and administrative charges.

In the result, the Act removes small privileged pockets from the revenue administration.

CHAPTER XI

THE JANJIRA AND BHOR KHOTI

1. *Introduction.*

In the Konkan, the khoti tenures of different types were found. There was such a tenure in the districts of Ratnagiri and Kolaba. The so-called 'khoti' obtained in the Salsette taluka now comprised in the Bombay Suburban District and Thana district. A third cognate variety of a less complicated nature was found in the coastal strip. It was not called 'khoti', but were known as the Kauli and Katuban tenures. All these tenures have been abolished by Government by enacting separate legislation.* During the implementation of the Bombay Khoti Abolition Act, 1949, it was noticed that a variety of the khoti tenure was prevalent even in the merged territories of the Janjira and Bhore States as constituted in the Kolaba district. Government, therefore, undertook urgent special legislation for abolition of the tenure.

The total number of khoti villages were as under:—

	No. of villages.
Janjira State	128
Bhore State (Sudhagad Mahal)	31
Total	159

2. *Historical background.*

The reasons for the genesis and growth of the khoti tenure are similar to the khoti tenures since abolished, viz., (i) populating the villages, (b) promotion of cultivation, and (c) collection of land revenue.

These considerations arose out of the physical and administrative factors obtaining in the tract in the last century. The Janjira tract was (is) full of hills, creeks and back-waters (especially the great Rajapuri creek) and in the distance, loom-

* (1) The Bombay Khoti Abolition Act, 1949.

(2) The Salsette Estates (Land Revenue Exemption) Abolition Act, 1951 and

(3) The Bombay Kauli and Katuban Tenures Abolition Act, 1953.

ed the long ranges of the Sayhadris. As regards the Bhore area, the terrain was rugged and hilly roundabout the Bhore Ghat. In these tracts, considerable difficulty was felt in bringing tenants from outside for cultivation and collecting land revenue for the States concerned. In this administrative background, some leading men were needed to populate villages for the purpose of bringing extensive uncultivable lands under cultivation and collecting land revenue on behalf of Government. This administrative necessity forced the States of Janjira and Bhore to lease out villages on payment of the fixed rental to Government. Like the ex-khote villages in the Ratnagiri district, the khote tenure was not very old. In Janjira, it was not more than 200 years old; whereas it was about 150 years in Bhore. According to the Administration Reports of those States, the Khote Settlement Act, 1880 was applied to the khote villages in the States of Janjira and Bhore in 1886 and 1890, respectively. But the application of the said Act to the Janjira villages was nominal, because each village was primarily governed by the sanads prior to 1886. And the conditions in those sanads substantially modified the provisions of the Act of 1880.

3. *Statistical data.*

There were 159 entire khote villages, 128 being in Janjira and 31 in Sudhagad Mahal of Bhore. They occupied gross khote area of 34,821 acres assessed at Rs. 42,865. The khots paid to Government jama equal to assessment of the lands. The khote faida enjoyed by the khots was of the order of Rs. 27,412 per annum.

The khote tenures in both the States had distinguishing features even though they were found in the same district of Kolaba and the Khote Settlement Act, 1880 was adopted in those States. Consequently, for the appreciation of their incidents in their proper perspective, it is proposed to deal with them separately.

4. *The Janjira Khote.*

For appreciating the incidents of the tenure, it is essential to know the distribution of different categories of the lands in the Khote villages. The lands were principally divided into dhara, kauli, khote and sarkari. Generally, unlike the khote

villages in the Ratnagiri and Kolaba districts, the Khoti lands were not divided into khoti khasgi and khoti nisbat; but the expression used in the Bot Khat and other village records (Record of Rights, Akarbandh) was khoti which was generally synonymous with the term 'Khoti Khasgi'. But the khata No. 6 in the Khatavahi of the khoti village, Aravghar was shown as खोत निस्वत खातें सामायिक. Such khatas related to the protected forest areas in khoti villages. The entry in the Khatavahi (V.F. V-A) showed that the revenue of the lands was to be enjoyed by the Khot subject to the payment of land revenue to the State. In the record of Rights, the lands were shown as Government (सरकारी) and the Khot as Vahiwatdar. These facts proved that the khoti nisbat lands vested in Government like such lands in the Kolaba district.

In the Shrivardhan mahal, certain lands were shown as khoti nisbat in the villages of Sakhri, Javele, Sakharsavanne, etc. Those khoti nisbat lands were the lands resumed by the State from one of the original khots for failure to pay land revenue and afterwards given to other co-sharer for management, i.e. the lands on forfeiture vested in Government and were given only for vahivat. This was an additional evidence in support of the fact that the khoti nisbat lands in the Janjira State vested in Government and not in the Khot like such lands in Ratnagiri.

The Khots were Marathas, Muslims, Kayastha Prabhus, Brahmins and one Mahar (Vangangaon in the Mbasala mahal).

Categories.

According to the Bombay Gazetteer, Khots in Janjira were of two kinds* viz.—

- (a) isafati (service), and
- (b) ordinary.

The isafati khots seemed to represent the hereditary revenue servants, whereas the ordinary khots were revenue farmers for a certain fixed period. There was nothing to indicate that the Khoti tenure was of four kinds as was found in the State records before its abolition:

* Bom. Gazetteer : Kolaba and Janjira, Vol. XI, page 453.

- (1) farokta (isafati khoti),
- (2) watani (isafati khoti),
- (3) vasuli (isafati khoti), and
- (4) tota (isafati khoti).

It is a significant fact that the Khoti Settlement Act, 1880 contained no provisions for such categories of villages. These categories were shown in V.F. VI—the Mutation Register. The State granted separate sanads in respect of each Khoti village.

As regards the term 'isafati khoti', the original Settlement Report of the Murud mahal describes it as a khoti village of which the aggregate rights and interests were vested in the khot on payment of certain price to the Janjira State. Besides the price, a khot had to pay to the State a settled annual jama-bandhi.

The sub-class, farokta khoti was covered by the expression 'isafat khoti' described above. The sanads indicated that they were given for consideration by the State. From the sanad for the village Bhardoli (Shrivardhan mahal), it appears that the khoti was given hereditarily in the year 1858-59 to one Antaji Ramchandra Changhole and Vasudev Bhaskar Dandekar of Shrivardhan for Rs. 537-6-0 plus Rs. 231 on account of expenses. The Khot had to recover assessment and pay the same to Government and had to enjoy मानपान कैदकानु चालत असेल ती गांवची वेठ बीगार, etc. The sanads granted in respect of Bapoli and Karivane villages of the Shrivardhan mahal in 1866 and 1857-58, respectively, showed similar conditions. Similarly, the village Abitghar of the Murud mahal was granted as farokta khoti in 1877-78 to one Dand Ambaji Dandekar and another for a consideration of Rs. 1,562-13-0 according to the sanad granted by the State.

As regards the watani isafati khoti villages, the villages were granted for services rendered or to be rendered to the State by Mukadams, Subedars, Gadkaris, Patils or Kulkarnis. By passage of time, the services were not required to be rendered and services originally associated with the grant were not rendered before the merger. For example, the sanad granted for Kanaghar (Mhasla mahal) showed that the sanad was granted in 1874 A.D. to the Sawant brothers of Kanaghar per-

manently on payment of nominal nazarana to the State. The village was already in their possession, but the watani isafat sanad was granted to them in 1894. It contained one condition to the effect that देवी धर्मी मानपान वगैरे सावंत्यास पावत आहे ते चालवावा i.e. the old privileges and rights enjoyed by the Sawants should be continued by the State. In short, such villages were in revenue management of the persons for generations and the State recognised them formally by grants of sanads.

The sanads of the villages Surai and Tembode show that the villages were granted as watan isafati khoti in the years 1866-67 and 1875-76, respectively, for Rs. 1,559-3-6 and Rs. 47-3-6 plus 6kh.-16m. rice. Thus, there was consideration in the watani isafati khoti villages similar to that in the farokta khoti villages. This was a common feature between the farokta and watani isafati khoti villages. Secondly, the khoti lands in the farokta and watani khoti villages vested in the khot because of the consideration involved in obtaining the khoti villages.

In the Original Settlement Report of the Murud mahal, the vasuli isafati khoti has been described as a khoti village which was farmed out for a certain period on condition of paying the amount of jamabandhi without investing the khot or holder with rights of transferring or otherwise alienating any land or a portion of a village (vide Appendix D of the Report). It appeared that the State granted villages for vasuli i.e. for collection of land revenue without any consideration. For Karamabeli (Murud mahal), a sanad was granted by the State in 1871-72 to one Fatima Bibi Saheb Sayyad Hussein Edroos hereditarily. It did not lay down any specific conditions; but according to the practice recognised by the State in respect of such villages, the khot had no right in such villages except collection of land revenue and payment of the same to Government.

The sanad granted for the Adad village (Murud mahal) in 1850-51 shows that the village was granted to one Narayan Trimbak Sathe, because there was a Tota (loss) of 16 kh.-12 mds. 1½ paylis and pendhas.

The sanad for the Belsai village of the Murud mahal showed that the village was given as khoti in 1857-58 to one Sayyad

Hassan Sayyad Ibrahim Adadi. The Khot had to pay dhara ($3\frac{3}{4}$ kh- $1\frac{1}{2}$ paylis rice) to the Pir, who paid judi and local fund cess to Government.

The village Borli Mandlay was given as vasuli khoti in 1873-74 to one Siddi Ibrahim Siddi Abdulla Khanjade on payment of dhara to the State.

In these vasuli isafati khoti villages, it did not seem obligatory to recover the past arrears as in the case of the Tota isafati villages. This incident distinguished the vasuli khoti from the tota khoti in the State.

It should be noted that unlike the farokta and watani khoti villages, the khoti lands in the vasuli khoti villages vested in Government and not in the khot. If the khots wanted to occupy any lands, they had to pay the State occupancy price equal to five times the assessment of lands. Such lands then became the private property of the khot.

Lastly, as regards the tota isafati villages, the Original Settlement Report of the Murud Mahal describes the category as under :—

“Tota Khoti village means a village of which the first fixed jamabandhi amount cannot be realised and, consequently, a certain loss accrues yearly; in such a case, the State confers the khoti rights upon a person when he binds himself to make up the deficit by paying a certain gradual increase per year during a certain fixed period in addition to what was the actual Jamabandhi, etc.”

It is clear from the name that the State found it difficult to recover the full assessment in some villages and suffered a loss (तोटा) in revenue continuously. In order to remedy this state of affairs, such villages were given to some persons for revenue management so that Government might get full assessment every year. Like the farokta khoti villages, no consideration was involved in the case of these villages. But many conditions were incorporated in the sanads granted for such villages. For example, the sanad granted in 1894 in respect of the Mudra village (Mhasala Mahal) is very illustrative. The sanad is in the name of Aba Bapu Khedekar Gauli of Ghodeghoom. Upto the grant of the sanad, the State sustained a loss

of Rs. 113½ in cash and 21½ khandis and 1½ mds. in grain. It was, therefore, stipulated in the sanad that the khot should pay to the State every year kamal akar and the past arrears within a period of 10 years. Some of the important conditions of the sanad are set forth below:—

(3) Before the collection season in Kartik, the Khot must give a solvent surety for the State dues.

(5) The Khot was authorised to raise the rent (मक्ता) from the Junekul, if it was less.

(8) The Khot had to produce before the State village records relating to recovery of revenue.

(14) He should pass receipts to tenants in token of rent; failing that he was liable to pay a fine equal to three times the rent.

(23) He could not mortgage the village without the permission of the State even for raising money for improvement of land.

(30) He could not sell or mortgage the village. But if expenditure was incurred for the village, the isafati right of the village could be mortgaged with the permission of the State.

(33) If the Khot was not able to improve the land by himself and if he accepted any co-sharer, the co-sharer was to have the same rights as the khot with the permission of the State.

(38) साग, सीसम, and खैर were treated as trees reserved by the State.

(39) If any tenant damaged these trees, the value was to be recovered by the khot and paid to the State.

(40) He was responsible for protection of the forest with the help of Patil and Mahar.

(46) He had no right to forest areas in the village.

The sanad granted to Ramechandra Shivram Chitnis in respect of the Ambali village on the 26th June 1878 contains similar conditions.

The sanad for the Maner village (Murud Mahal) shows that the village was granted as tota khoti in 1867-68 to one Atmaram Hari and Bapuji Raoji Karnik. The tota or loss of 6½ kh. 1½ mds. and 3 paylis of rice was ordered to be paid within 3 years and, thereafter, the khot had to pay

only assessment to the State. It contains other conditions similar to those in the sanad of the Mudra village. According to the sanad issued by the State, the Mahalunge B.dk (Murud) village was granted as tota khoti in 1871-72 to one Ganpatrao Govind Karnik, Ganpatrao Yeshwant Adhikari and Atmaram Ramchandra Dighe on condition that the tota of $11\frac{1}{2}$ kh. $4\frac{1}{2}$ mds. and $2\frac{1}{2}$ paylis rice should be paid to the State within 3 years.

The village Mahalunge Kd. was granted as tota khoti in 1871-72 to one Vishnu Panshet Sonar on condition to make good within 3 years the loss of 2 kh. $12\frac{3}{4}$ mds. and $\frac{3}{4}$ payli and payment of assessment thereafter.

Like the vasuli khoti villages, the khoti lands in these villages vested in Government and not in the khot. He could occupy the khoti lands on payment of occupancy price equal to five times the assessment. Such lands on payment of occupancy price became the private property of the khot.

Distribution of Lands.

In the khoti villages, as stated above, there were generally four categories of lands, e.g. dhara, kauli, khoti and sarkari. The Kauli tenure has been abolished under the Kauli and Katuban Tenures Abolition Act, 1953. The dhara lands were held by dharekaris on payment of full survey assessment direct to Government. The inquiry into the State records or the Village Form VII (index of lands) revealed that there were no quasi-dharekaris like those in the Ratnagiri district.

The khoti land held by the khot had been shown in the village records (V.F.I., VI, VI-A etc.) as khoti generally. The exceptions of the entries like khoti nisbat samayik and khoti nisbat in the Shrivardhan Mahal have been pointed out before. These lands were of the ownership of the Khot in the farokta and watani villages. The khoti lands in the vasauli and tota villages vested in Government and not in the khots unless they had purchased them on payment of occupancy price. The last category of the land stated to be Sarkari generally covered the warkas lands known as Samlatpad and Sabandhpad which were assessed waste and in respect of which the khot paid assessment to Government. These lands vested in Government, but the khot

in his capacity as khot had to manage them and pay assessment to Government. At the original settlement, both these pads have been decided to be Government land.

In these villages, the khots held most of the cultivable lands and dharekaris were small in number.

Like the Ratnagiri khots, these khots used to recover various cesses, veth, begar, babs, etc., but during the State regime, most of them were abolished by the Nawab Saheb during 1897-98 and some pattis, which remained, were abolished in 1918. In the circumstances, the khot recovered fixed makta from the occupancy tenants and rents according to the provisions of the Tenancy legislation from the protected and ordinary tenants. In the result, the khots had become ordinary landholders paying assessment to Government.

Tenants:

In those villages, the tenants were of two kinds, viz., old tenants and ordinary tenants. The former were akin to the occupancy tenants referred to in section 5 of the Khoti Settlement Act, 1880; whereas the latter were relatable to the ordinary tenants referred to in section 8 thereof. According to the Samanya tharav recorded in the B Patrak (Record of Rights) in 1896, the tenants, who were cultivating khoti land for a period of 12 years before 1883, the year of the original survey, were recognised as occupancy tenants (जुने कुळ), and others, who could not be covered by the stipulated period, were decided to be ordinary tenants. The occupancy tenants were not found in all the khoti villages and, where they were found, their number was not large. They had to pay fixed rent (मक्ता) in kind as fixed at the time of the survey and it was not to be varied. In the event of drought, scarcity or famine, the khot could not recover more than half the fixed makta. In the case of the latter (ordinary tenants), the khot could change the rent according to the exigencies of the revenue management before the application of the Bombay Tenancy and Agricultural Lands Act, 1948.

The rights of the occupancy tenants were heritable but not transferable, as provided in section 9 of the Khoti Settlement Act, 1880. They could be transferred with the permission of the khot. This was because the State had not adopted the

amendment of 1946 to the Khoti Settlement Act, 1880 under which the rights were made transferable. In the case of the contingencies specified in section 10 of the Act, e.g. lapse, forfeiture or resignation, the lands held by these tenants reverted to the khot. But the contingencies arose very rarely. Only in the case of these lands, the khot had reversionary right.

The fixed rent in kind was always more than the survey assessment and the balance remaining with the khot after payment of survey assessment to Government was the khot's gain. The real remuneration was the prestige that he had in the village because of being a khot.

The khot had no rights to mines and minerals. The Bombay Land Revenue Code, 1879 was adopted in the State in 1885. Under section 69 thereof, all such rights were reserved by the State and only the subsisting rights were not affected.

The ordinary tenants after the application of the Bombay Tenancy and Agricultural Lands Act, 1948, were of two categories, viz., protected or ordinary for 10 years and their rents were regulated by the provisions of that Act.

The Khot's Faida.

In the Ratnagiri and Kolaba districts, the khot's faida was paid by the quasi dharekaris and permanent tenants and was recorded in the Thal tharav at the bottom of the Botkhats. In the case of the Janjira khoti, however, the State records did not specifically mention the Khot's faida anywhere. But only fixed rent (ठरीब मक्ता) was recorded in the Record of Rights and was payable by the occupancy tenants only. As section 33 (1) of the Khoti Settlement Act, 1880 covered such cases, the balance that the khot might have after payment of assessment to Government might be considered as khoti faida.

Rights to trees and forests.

The trees in dhara lands were owned by the dharekaris. Those in the khoti lands were owned by khots and governed by the provisions of the Bombay L.R. Code, 1879 and the Bombay Tenancy and Agricultural Lands Act, 1948. According to the sanads and the practice in the State, the Khots had no right to protected and reserved forests in their villages. The khots had to safeguard the interests of Government in the protected

forests which had been shown as khoti nisbat samayik in the village records, but they were not entitled to claim any rights in those forests.

According to the Administration Report for 1942-43, besides the reserved forests, there were kirdawa forests which belonged to private dharekaris and khots and were intended for cutting rab, i.e. producing ash manure for the paddy fields of dharekaris from the lopping of trees in these areas. The entire management of the forests vested in the State. But the State recognised the dharekari's right by giving them 14 annas in a rupee except for teak, ain, sawar and mango which were reserved trees and for which the State gave the owner a share of annas 8 in a rupee. The protection fee of 2 annas (रखवाली) was charged for preventing haphazard cutting or lopping of trees of their ownership.

Difference between the Ratnagiri Khoti and Janjira Khoti.

It is of special interest to distinguish the Janjira Khoti from the Ratnagiri Khoti abolished by Government.

Ratnagiri.

(1) The Khoti was governed by the K.S.Act.

(2) There were khoti khasgi and khoti nisbat lands, which vested in the khots.

Janjira.

The Act was applied to the villages in the eighties of the last century, but each village was primarily governed by the covenants of the sanad granted by the State. The Act was deemed to have been applied nominally.

There was no such classification of lands held by the khot; but all lands were recorded as khoti and there was a separate khot khata in the Khatawahi (V.F. VIII-A). But these lands were akin to khoti khasgi lands in Ratnagiri. But the lands in vasuli and tota khoti villages vested in Government, although the khot had hereditary interest.

*Ralnagiri.**Janjira.*

(3) Khot had no right to protected and reserved forests.

The Janjira khot had no such right, and the protected forest area was recorded as khot nisbat samayik in the village records.

(4) Khot faida was paid by quasi-dharekaris and permanent tenants.

The concept of khoti faida was absent and was not specifically recorded anywhere in the State records or sanads.

(5) There were

There were:

1. dharekaris,
2. quasi-dharekaris,
3. permanent tenants and
4. ordinary tenants
(protected and ordinary).

1. dharekaris.
2. occupancy tenants and
3. ordinary tenants
(protected and ordinary).

(6) A khot had reversionary rights in the case of lapse, forfeiture or resignation mentioned in section 10 of the Act.

(6) The Khot had similar reversionary right in the case of the lands held by occupancy tenants only.

(7) There were no categories like farokta, watani, vasuli and tota.

(7) There were such categories, which made the khoti problem more complicated.

In short, the difference in the incidents of the tenure was fundamental and necessitated an undertaking of a separate legislation.

Survey and Settlement:

All the khoti villages have been surveyed and settled during the State regime. The original settlement was carried out from 1883 to 1895 and the revision settlement during the period from 1924 to 1930. The ordinary rates of assessment in the villages vary from Rs. 8 to Rs. 12 per acre and in some villages, the rate is Rs. 14 or Rs. 16 per acre. In the adjacent talukas of Roha and Mangaon, the survey rates vary from Rs. 6 to Rs. 8 per acre. In short, the survey rates of Janjira are one and a half times more than the rates in the former British adjoining talukas.

The Record of Rights has been introduced in all the khoti villages during the years 1924-30. The necessary entries about the khoti lands held by the khots have been made therein. The entries about the occupancy rights have been made in the column of other rights in V.F. VII-XII.

5. *The Bhore Khoti:*

Like the khots of Janjira, these khots were not granted any sanads by the State, but were governed by the provisions of the Khoti Settlement Act, 1880, which was applied to the Sudhagad mahal of the Bhore State in about 1890.

According to the Original Settlement Report of the Sudhagad taluka, there were 69 villages held on the khoti tenure in 1884. Out of them, some villages were watani khoti, salbandhi khoti, watani khoti khichadi and salbandhi khoti khichadi. Practically, more than half the villages were salbandhi khoti either wholly or in part. This type of Khoti arose out of the farming out of the revenues to temporary contractors, who were given the powers of khots for certain periods varying from 5 to 15 years (para 19 at page 19 of the Settlement Report). These salbandhi khots were temporary khots managing the villages under agreement for the periods stated above. During the survey and settlement operations, these temporary khots were made to resign the khotship, and if they failed to do so, they were required to pay full survey assessment. As a result, it seems that all the salbandhi khots resigned the khotships. Consequently, there were only 31 watani khoti villages at the time of their abolition.

All the 31 khoti villages had been surveyed and settled at the time of the original settlement, but the Record of Rights was not introduced then. It is understood that the work of introducing the Record of Rights in these villages is in progress at present.

The watani isafati khoti villages were held by the paragana watandars like Deshmukh, Deshpande, etc. The khots were Marathas, Brahmins and Prabhus, who were created mainly because of the difficulties in collection of the State revenue.

Distribution of lands in the Khoti village :

The lands in the khoti villages were generally divided into dhara, khoti khasgi, khoti nisbat and kauli. The kauli lands have been abolished by the Kauli and Katuban Tenures Abolition Act, 1953. The dhara lands were held by the dharekaris on payment of assessment directly to Government. There were no quasi-dharekaris, as we had in the Ratnagiri khoti villages. The khoti khasgi lands were the private property of the khots. As regards the "khoti nisbat" lands, the Superintendent, Ratnagiri Revenue Survey had directed that all lands belonged to and were under the control of the watandar khots, who paid to Government a fixed sum on the whole village and, therefore, the Bhore Chief could not claim the portions of lands of those villages entered as Government waste and bring them under his control, thus taking them away from the watandar khot. Such lands were, therefore, ordered to be entered as khoti nisbat during the original survey and settlement.* These lands reverted to the khot in the event of lapse, resignation or forfeiture under section 10 of the Act. They became malki land of the khot. In short, like the khoti khasgi and khoti nisbat lands in the Ratnagiri district, such lands in the Sudhagad mahal also vested in the khot.

Tenants and Khoti faida :

In these villages, there were two categories of tenants, viz., occupancy tenants (जुने कुळ) and ordinary tenants (साधे कुळ). After the application of the Bombay Tenancy and Agricultural Lands Act, 1948, the ordinary tenants were further divided into protected and ordinary tenants for 10 years. The occupancy tenants cultivated the khoti nisbat lands in the villages and paid rents and khoti faida in accordance with the provisions of section 33 of the K.S. Act, 1880. The khoti faida was paid by these tenants only. The dharekaris and ordinary tenants did not pay it. The khoti faida was recorded in the D Register and not in the Bot Khat, as in Ratnagiri. It was also recorded in the Lawni Patrak of the khot. It was payable in cash and kind. It had been fixed at different rates according to the vahi-wat of the villages and varied from 4 to 8 annas in a rupee of

* Vide para 14 at page 19 of the Original Settlement Report.

assessment. The number of such tenants was very large. Their rights were heritable, but not transferable without the permission of the khot.

As regards the ordinary tenants, the khots could change them at their sweet will before the application of the Tenancy legislation. But the khots could not do so, now. They cultivated some of the khoti khasgi lands of the khots, which were not under their personal cultivation. They paid rent to the khots but not khoti faida. Their number was small.

Rights to trees and forests:

The khots had to protect the forests in their villages but they were not entitled to any remuneration for the duty of protection. The Bhor Chief reserved, at the time of the original settlement, 16 kinds of trees in occupied lands noted below:

- | | |
|-------------------|----------------------|
| 1. Sagavan (teak) | 9. Bilwa. |
| 2. Blackwood. | 10. Jambal. |
| 3. Sandalwood | 11. Khair. |
| 4. Hirda. | 12. Dhowda. |
| 5. Ain. | 13. Mad (Toddy tree) |
| 6. Kinjal. | 14. Heddu. |
| 7. Bhorap. | 15. Bambus. |
| 8. Nana. | 16. Shikakaye. |

Except these trees, occupants were given full rights to all other trees growing on their lands. The khot's rights to trees were governed by the provisions of the sections 40 of the Land Revenue Code of 1879, which was adopted by a notification issued by the Chief on the 29th January 1883.

As great inconvenience was felt by the people, representations were made to the Ruler, who appointed a Committee to go into the question in 1925. On the recommendation of the Committee, the Ruler ordered that all the rights of occupants in the below-mentioned ten trees should be conceded. And in the

- | | |
|-------------|---------------------------------------|
| 1. Dhawada. | 6. Bibla. |
| 2. Mad. | 7. Jambul. |
| 3. Kinjal. | 8. Heddu. |
| 4. Bamboo. | 9. Bhorap. |
| 5. Nana. | 10. Trees entwined with
Shikakaye. |

case of the five types of trees, viz., Teak, Sandal, Blackwood, Ain and Khair, the State should take 1/3rd in kind by way of royalty with a slight variation in the case of the sandalwood trees, which were permitted to be cut on payment of a graduated scale of fees according to the girth of the trees to be cut.*

In the last autumn session (1953), the Revenue Minister introduced a Bill to abolish these tenures in the State Legislature. It was passed without any amendment. The Act has received the President's assent and will be enforced shortly.

Bombay Merged Territories (Janjira and Bhore) Khoti Tenure Abolition Act, 1953.

The legislation is called the Bombay Merged Territories (Janjira and Bhore) Khoti Tenure Abolition Act, 1953. It applies to 159 villages of the former Janjira and Bhore States merged in the Kolaba District. It should be made clear that there were no khoti villages of the Bhore State merged in other districts.

The Khoti tenure is abolished with all its incidents.

Since the incidents of the Khoti tenure in Janjira and Bhore were different, separate definitions of the terms, "Khoti fayda", "Khoti Khasgi lands", "Khoti nisbat land", "Khoti dues" and "Occupancy tenant" have been provided in section 2.† Sub-section (4) of that section provides for determination of any dispute as to the category of the khoti village and the occupancy tenant.

Section 3 abolishes the Khoti tenure and declares all sanads to have been cancelled. Section 22 declares that the Khoti Settlement Act, 1880 as adopted in the State is repealed.

Sections 4 and 5 relate to the persons, who are recognised as occupants in Janjira and Bhore, respectively. The different provisions are necessitated because of the differences in their incidents. In the *Janjira villages*, the following persons are recognised as occupants within the meaning of the Land Revenue Code, 1879.

* Vide para 9 of the Administration Report of the Bhore State for 1926-27.

† For detailed explanation of these terms, please see Chapter "Khoti Tenure" in the author's book, "Agrarian Reforms in Bombay".

- (a) in the farokta or watani isafati village,
 - (1) a khot,
 - (2) an occupancy tenant
in possession of khoti land,
- (b) in the vasuli or tota isafati village,
 - (1) a khot in respect of khoti land acquired by him
on payment of occupancy price,
 - (2) a tenant or if there is no tenant, a khot in possession of such land, which is not so acquired.
- (c) in the case of sarkari land in any of the four categories of villages,
 - (1) a tenant in possession,
 - (2) a khot, if there be no tenant in possession of such land, and
- (d) a dharekari in the case of the dhara land.

But, for the conferment of the occupancy rights in respect of the lands in vasuli isafati and tota isafati villages, and the sarkari lands, a khot, a co-sharer or a tenant will have to pay to Government the occupancy price equal to six times the assessment of the lands fixed for the land.

In the *Bhor villages*, the following persons are recognised as occupants:—

- (a) a khot, in the case of khoti khasgi lands,
- (b) (i) an occupancy tenant in possession of the khoti nisbat land,
 - (ii) a khot, if there be no occupancy tenant in possession of such land, and
- (c) a dharekari, in the case of dhara lands.

The provisions contained in sections 4 and 5 are in accordance with the accepted policy of Government, which has been followed in all the land reforms legislation. But section 6 goes one step further towards abolition of the absentee landlordism in the State. So far, ordinary tenant holding tenurial or ordinary khalsa land is not made eligible to the rights of occupancy even on payment of occupancy price to a landlord. But here, such ordinary tenant, who was paying to the khot rent equal to the amount of assessment of the land, is recognised as

occupant on payment to the khot of the occupancy price equal to three times the assessment in suitable instalments. But this right is to be exercised within a period of 2 years from the coming into force of the Act.

The khoti faida was payable by the occupancy tenants only. Their liability to pay khot's dues to khots is extinguished after the 31st July 1954. The past arrears in this respect are not affected (section 7). For extinguishment of the khot's dues from the occupancy tenants, the khot is to be compensated by such tenants by payment of commuted value of such dues (section 8). The provisions follow the pattern of section 5 of the Bombay Khoti Abolition Act, 1949 except in one material particular. In that Act, the maximum of the commuted value has been fixed at three times the khot's dues, whereas in this legislation, it is fixed at five times the dues. The reasons for the higher quantum are that the rights of the occupancy tenants in Ratnagiri were made transferable by the amending Act of 1946, whereas, in the absence of the adoption of that amendment in Janjira and Bhore, that right could be exercised only with the permission of the khot. The result is that this legislation abolishes an additional right of the khot (i.e. right to grant permission to make the rights of occupancy tenants transferable) and for that, some compensation requires to be paid to khots. Consequently, provision has been made at 5 instead of 3 times the khot's dues. This fact has been expressly made clear in the Explanation given at the end of section 8.

The amounts of occupancy price and commuted values are recoverable as arrears of land revenue (section 9).

Sections 10 to 19 follow the pattern of the Bombay Khoti Abolition Act, 1949. As they have already been dealt with in the Chapter on the "Khoti tenure" in the author's "Agrarian Reforms" they are not repeated here.

The schedule appended to the Act contains the list of villages covered by the legislation. It is given in order to facilitate implementation of the Act.

Effects of the legislation:

The effects of the legislation may be divided into financial, administrative, and socio-economic. As regards the financial

implications, Government will not get any additional land revenue, because the khots already paid the jama which was equal to the aggregate of the survey assessment of the lands of the entire village. Besides, the commuted value of the khot's dues provided in section 8 of the Act are not to be paid by Government but by the occupancy tenants. But Government will have to pay compensation for extinguishment of the khot's rights of reversion and appropriation of any uncultivated and waste lands. It is reported that there are practically no waste and uncultivated lands in these villages. So, no compensation will be payable for extinguishing that right. The right of reversion was only notional and any amount of compensation that might be payable will not be large. This fact is abundantly borne out during the implementation of the Bombay Khoti Abolition Act 1949. The villages are surveyed and settled with the result that no expenditure will have to be incurred on those operations. Since the villages are already in charge of the village talatis, no alternative administrative arrangements are required to be made. The intermediary—khot—disappears from the village administration.

As regards the socio-economic effects, the occupancy tenants and the ordinary tenants paying rent equal to assessment are benefited, as they are levelled up in the agricultural ladder. This will help them to increase agricultural production and improve their economic condition.

CHAPTER XII

THE VILLAGE SERVICE INAMS

1. *Historical background*

In the old village community, villages in India were economically and administratively self-sufficient and self-contained units. All the needs of the village-folk were satisfied by agriculture and home industries. With a view to meeting the needs of agricultural operations and home industries, a batch of village servants useful to the community sprang up. They were Joshis, Kazis, Mullas, Muzavars, Suthars, Khatibs, Luhars, Kumbhars, barbers, etc., who came to be subsequently called Bara Balutedars in the Deccan and 'Vasavāyās' (settled) in Gujarat. For the performance of service to the village community, these persons were required to stay at the village. In those days, their services required special encouragement. Government of the day, therefore, granted service inams consisting mainly of land, whenever from the small size of remote position of a village or other similar cause, an attraction of a small rent-free land was considered necessary to retain the services of those servants, who, without such inducement, might with difficulty be persuaded to remain in villages. In these circumstances, the system of village servants useful to community developed.

2. *Settlement of Inams*

The inams were settled during the British regime in the "Old Province" and the "New Province", separately. The 'Old Province' comprised of the districts of Ahmedabad, Kaira, Panch Mahals, Broach, Surat, Thana, Kolaba and Ratnagiri. The 'New Province' comprised of Khandesh, Deccan and the Southern Maratha Country now known as the districts of East Khandesh, West Khandesh, Ahmednagar, Nasik, Poona, Satara, Sholapur, Bijapur, Belgaum, Dharwar and Kanara.* As the 'Old Province' was not subject to the provisions of the Rent-free Estates Act XI of 1852, its service inams were settled under

* G. R. R. D. No. 1880 dated 14th May 1864 which decided that Act II and not Act VII of 1863 was applicable to the inams in the Kanara District.

the Summary Settlement Act VII of 1863. However, as the 'New Province' was subject to the Act XI of 1852, its inams were settled under the Summary Settlement Act II of 1863. In view of this difference in settlement of the inams, there was a fundamental difference in their regulation. Such inams in the 'Old Province' were regulated by the Resumption Rules of 1908 as given in Article 98 of the Alienation Manual by Joglekar and the provisions of Act VII of 1863. In the case of the 'New Province', the Act II of 1863 was applicable to both categories of inams, the Pensions Act, 1871, and the Invalidation of Hindu Ceremonial Emoluments Act, 1926 were applicable. Topping all, the sanads granted to the holders after settlement of the inams by the British conditioned the continuance of the inams. It should be clearly understood that the provisions of the Bombay Hereditary Offices Act, 1874 were not applicable to these inams.

The scrutiny of the sanads* shows the following broad features of these inams:—

- (1) the service inams consisted of entire villages, lands and cash allowances;
- (2) they were to be held subject to performance of service;
- (3) the servants had to remain loyal to Government;
- (4) they were non-transferable and consequently nazarana was not leviable;
- (5) land emoluments were with or without judi;
- (6) cash emoluments were also with or without judi; and
- (7) the entire villages and lands were shown as *service emoluments* and were liable to be resumed when service was not performed at all or performed inefficiently.

It should be noted that the settlements of the watans made by the British related to exemption from payment of land revenue only. No claim was made on behalf of Government to the occupation of the land nor did it form part of the settlement. The settlements recognised that the original grant was

* Joglekar R. N.: Alienation Manual, Article 101 and Appendix F.

of land revenue and that resumption could be made by levy of full assessment only.

3. *Statistical data*

In the pre-merger Bombay State, there were 20,734 village servants useful to community. They held 2,11,244 acres of service inam lands assessed at Rs. 3,04,707 and bearing judi of Rs. 76,200. Thus, Government had to undergo a nuksan of Rs. 2,28,519 on account of these inam lands. Besides the lands, the servants enjoyed cash allowances amounting to Rs. 48,030 per year. In the result, Government had to undergo an annual loss of the order of Rs. 2,76,549 (Rs. 2,28,519 plus Rs. 48,030).

As regards such inams in the 'New Province', it may be noted that there was one entire village Talgulli (District Belgaum), which was given to the Sayyads for the Kazi service. There were 11,081 village servants useful to the community. They held service inam lands measuring 1,70,643 acres assessed at Rs. 1,87,965 involving nuksan of Rs. 1,46,711 to Government. Besides land emoluments, they enjoyed cash allowances amounting to Rs. 38,785 per annum. In addition to these emoluments from Government, the servants used to get remuneration either in cash or kind from the villagers, whenever a specific service was rendered to them. In short, the Government emoluments were only an inducement for such servants to stay in the villages.

4. *Case for resumption*

The service inams were granted by the Governments concerned in order to settle such servants in the villages. But that was the position when the means of transport were not developed, and the village servants were content to make a living by staying in the villages. But with the progressive mechanization of the means of transport, the age-old self-sufficiency of the means of transport has broken down by stages and the villages are fast losing out to towns and cities. They are now inseparably linked up with the big cities for labour, business, supply of daily necessities, education, etc. The former village industries such as weaving, carding, oil-pressing, etc., are wiped out of existence by the invasion of the cheaper machine-made

products from the cities. In addition, bigger towns and cities afford better and profitable employment to artisans like carpenters, blacksmiths, etc. These circumstances have encouraged the Bara Balutedars to leave the villages in search of gainful employment in cities with the result that the village service is either not performed at all or where it is performed, it is done very perfunctorily. Their service lands are in many cases alienated to outsiders and Government has been compelled to resume them. As the service inams in the 'Old Province' are governed by the Resumption Rules of 1908, Government decided to resume them by special rules to be framed hereafter. But in the case of those in the 'New Province', a special legislation was deemed necessary. Consequently, Government introduced a Bill to abolish these inams in the autumn session of the State Legislature. The legislation, as assented by the President, has been brought into force with effect from 1st April 1954.

5. *Bombay Service Inams (Useful to Community) Abolition Act, 1953.*

The Act applies to the inams in the *pre-merger* districts of East Khandesh, West Khandesh, Ahmednagar, Nasik, Poona, Satara, Sholapur, Bijapur, Belgaum, Dharwar and Kanara. Similar inams in the 'Old Province' (Gujarat and Konkan) are left to be abolished by rules to be framed hereafter. Such inams in the merged territories and areas are proposed to be abolished by the omnibus bill. If a question arises whether a particular inam is service inam or not, provision has been made for inquiry by an officer authorized by Government. The decision of such officer is subject to appeal to Government.

Section 3 provides for abolition of all service inams with all their incidents and all rights to hold office and any liability to render service.

In the entire Act, sections 4 and 5 are important and require to be clearly understood. Section 4 covers service inams adjudicated under rule 8 of Schedule B to the Bombay Rent-free Estates Act, 1852. Such inams were decided to be private property of the holder under Act II of 1863 with the result that on resumption of the inams, such inam villages and lands are subjected to the payment of full assessment only. The holder in

possession of the land or any person holding through him and an inferior holder paying assessment to him are recognised as occupants within the meaning of the Land Revenue Code.

Section 5, however, refers to the inams which were not adjudicated under rule 8 of Schedule B of the Act XI of 1852. Such inam lands are resumed and regranted on new and impartible tenure to the holder on payment to Government of occupancy price equal to six times the assessment within two years from the coming into force of the Act. If the person wants to make such lands transferable or partible, he will have to pay to Government nazarana equal to 20 times the assessment. It must be remembered that such unadjudicated cases are few and far between, as most of such inams were adjudicated under the Act XI of 1852 during the British regime. This provision is made in order to meet any case which remained unadjudicated for some reason or the other.

Sections 6 and 7 provide for compensation. Under section 6, a holder of cash allowance is entitled to compensation at seven times the annual amount and ten times the amount of revenue in the case of inams consisting of the whole or part of the village. The village Talgulli (district Belgaum) is covered by this section. No application requires to be made under this section.

Section 7 relates to other rights extinguished and not provided for in section 6. The person affected has to apply to the Collector within six months. The Collector has to hold a formal inquiry to assess and award compensation. His award is final subject to an appeal to the Bombay Revenue Tribunal. Compensation is not to be paid in cash but in transferable bonds bearing 3% interest and redeemable during a period of 20 years in equated annual instalments of principal and interest.

Section 12 expressly declares that the provisions of the Bombay Tenancy and Agricultural Lands Act, 1948 shall continue to govern the relations of the holder and his tenants except in so far as the said provisions are not in any way inconsistent with the express provisions of this Act.

Section 14 declares that the provisions of the following enactments have ceased to apply to these inams:

- (a) the Bombay Rent-free Estates Act, 1852.
- (b) the Summary Settlement Act II of 1863.
- (c) The Pensions Act, 1871.
- (d) the Invalidation of Hindu Ceremonial Emoluments Act, 1926.

The remaining provisions are of a usual type and are, therefore, not dwelt upon here.

6. *Financial implications*

On resumption of the inams, no alternative administrative arrangements are required to be made. But by resumption, there will be an annual recurring receipt of Rs. 1,46,711 which was hitherto enjoyed as nuksan by the village servants. The non-recurring receipts will be on account of occupaney price and nazarana that Government would get under section 5. But as such unadjudicated cases are very few, the non-recurring receipts are likely to be very small. Against this, no recurring expenditure is required to be made, as no alternative administrative arrangements are required in the wake of resumption of inams. The non-recurring expenditure is on account of compensation payable under sections 6 and 7. Provisions in section 7 are residual with the result that there will be hardly any claims. But compensation under section 6 will have to be paid. It is estimated at Rs. 2,73,245. For facility of reference, the financial implications are tabulated below:—

Receipts		Expenditure	
Recurring	Non-recurring	Recurring	Non-recurring
Rs. 1,46,711	Negligible	Nil	Rs. 2,73,245

Thus, Government revenues have increased by Rs. 1,46,711 per annum, as against the non-recurring expenditure on compensation of the order of Rs. 2,73,245. The liability of compensation will be wiped out within 2 years. In short, the legislation is an aid to taxation.

7. *Socio-economic effects*

The village community, as it exists today, is neither self-contained nor self-sufficient. By the impact of economic forces,

the village servants have already left villages in search of better and gainful employment outside. The legislation is not likely to accelerate the pace of such migration to cities, because the process is well-nigh complete. The inams had become functionless since long and for whatever services the servants rendered, they used to get remuneration either in cash or kind from the village-folk. Small pieces of inam lands granted by Government generations ago ceased to be an adequate inducement to them to stick to villages in the altered economic circumstances. The fear that the remnants of the old village community are likely to be abolished by the legislation are, therefore, unfounded. In a democratic society, the hereditary element in service remunerated in land and/or cash has no place. The village economy should find its own level by the interplay of economic forces, within and without.

CHAPTER XIII

JAGIRS

Introduction :

We have seen in the chapter on "Saranjams and political grants" that the jagirs and other grants of the political nature of the pre-merger Bombay State have been abolished under the Bombay Saranjams, Jahagirs and other Inams of a Political nature, Resumption Rules, 1952. Such grants of the merged territories and areas were left out for separate treatment. Unlike the saranjams and political grants of the pre-merger State, the jagirs in the merged areas and territories were not previously inquired and settled in all those areas; and wherever they were inquired or settled, their recognition and continuance depended much upon the pleasure of the Ruler. Naturally, there was uniformity in the diversity of the grants and their conditions. Some grants were supported by sanads, orders or rules and some had sanction only in custom or usage. Some grants antedated the advent of the ruling dynasty and the jagirdars were therefore not grantees. But such grants were acquiesced in or recognised subsequently by the rulers.

As the statistical and other information about these jagirs on a uniform basis was not available, the State Government appointed, after the merger of the States, two Alienation Enquiry Officers for the Deccan and Gujarat States for collecting the necessary data. On the basis of their reports, Government decided to abolish the jagirs by special legislation.

Categories of Jagirs.

The jagirs may be broadly divided into two categories, viz., (1) those granted for maintenance to the members of the royal family and (2) those granted in appreciation of valour in war or services to the State. It may be noted that they were given different names according to the circumstances of their origin. In these two broad categories, there were sub-categories. It is, therefore, proposed to discuss below the main categories of the jagirs.

(1) Certain grants were made for the maintenance of the members of the royal family and for military valour. They were called bhayati jiwarak jagir, ayada or jiwai. It was the practice in the States that on the death of the Ruler, his eldest son became the Ruler and his younger brothers, who were called Maharaj Kumars, were granted jagirs for maintenance of their status and position. Other relatives of the ruling family were also granted jiwai grants, which were originally life-grants but became hereditary in practice. This category was very common and was found practically in all the States and estates.

(2) There were certain jagirs mainly granted to the Sardars for the military service. They were supported by the pattas or sanads issued by the State. Because such jagirs were supported by pattas, they were called patavati jagirs. The military service was the essential content of the grants. They were found in the States of Idar, Palanpur, Lunawada, Sant, Malpur, Danta, etc. They paid tanko or tribute to the State concerned.

(3) There were certain jagirs which antedated the advent of the ruling dynasty. The jagirdars were already on the Bhumi (soil) and were not grantees of the Ruler concerned. They were, therefore, called Bhomia jagirs. Loyalty more than military service was the ingredient of the jagirs. Such jagirs were mainly found in the Idar and Palanpur States.

(4) There was one class of jagir called Bhagena, Bhagilu, or Sharakati meaning co-shared with the State. The revenues of such villages were co-shared between the State and Jagirdars in varying proportions. Generally, the revenues were equally co-shared. Originally, several such villages were "swang" or exclusively owned by the Jagirdars, but owing to mal-administration and disputes amongst the co-sharers, the State stepped in for management and forced them to pay a certain share (normally half) from the village revenues. In this way, the swang villages became bhagena. They were found practically in all the States.

(5) In the Tharad State (Banaskantha district), there was a special category of the jagirs called the Jamaiya jagirs. They were so called because the jagirdars paid jama to the Tharad State. Those jagirs were very old. They were granted by the Tharad Darbar for repopulating villages, which were rendered

waste and desolate by the depredations of the Khosas from across the border of the State. Parwanas evidencing the grants of jagirs were given by the Tharad Thakor from 1809 onwards. The jama was fixed in proportion to the produce of the lands. They were found only in the Tharad State.

(6) Certain grants called Chakariat jagirs were found only in the Dharampur State. The origin of those jagirs was traced to the grant of villages to the Bhil Naiks for protecting the State from the depredations of the Pindaris from across the State border. The villages were held for generations by the Naiks, who formed the irregular militia of that State. They paid to the State only palit patti, sukhadi and bhikarkanu.

(7) There were certain villages granted on farm or makta to certain persons owing to exigencies of administration. The farmers were given a fixed share from the village revenues. They were mainly found in the Akalkot and Sangli States.

(8) There were saranjam, mokasa and other grants of political nature. They were akin to the saranjam grants of the pre-merger Bombay State. They were found mainly in the Deccan States.

(9) The merger of the States and estates created unwittingly one more category of jagirs. At the time of the merger in 1948, certain holders of the States and the estates in the districts of Sabar Kantha, Banaskantha, Mehsana and Baroda executed the Zamindari agreements. Under the agreements, the estate-holders were entitled to collect rent in cash or kind from the cultivators of those villages and had to pay only the total annual contribution, which they used to pay to the Government of India before the merger till the survey and settlement was introduced in those States. This created an administrative anomaly in that Government could take over the entire administration of the big states like Baroda, Kolhapur, Palanpur, Chhota Udepur, Rajpipla, etc., which were covered by the privy purse agreements, but it could not have an entire grip over the villages of smaller States of Pandu Mewas, Sankheda Mewas, Dabha, Bolundra, Dadhalia, Derol, Gabat, Kadoli, Khedawada, Prempur, etc. There were 73 such estates found in Baroda (51), Sabarkantha (11), Banaskantha (3) and Mehsana (8). The grip of the Thakores on the villages con-

tinued as hitherto. Complaints of oppression, eviction of cultivators and withdrawal of grazing areas, either for personal cultivation or disposal to outsiders were heard. Since the Thakors were protected by the covenants of the agreements with the Government of India, the State Government could not have a questioning interference in those estates. They, in effect, created a new type of intermediary interests like the jagirdars.

Statistical data:

There were 3,321 jagiri villages covering an area of 30,79,870 acres with an aggregate land revenue assessment of Rs. 38,12,648. The jagirs were either proprietary or non-proprietary according as the jagirdar had proprietary interests in the villages or not. Out of the jagirs, the jagirdars used to receive annual income of the order of Rs. 52,74,960 and to pay to Government only Rs. 5,86,489 and the balance of Rs. 47 lakhs was appropriated by the Jagirdars. Most of the jagiri villages in Idar, Palanpur, Deogadh Baria, Lunawada, Rajpipla, etc., were surveyed and settled during the State regime. But there were several jagirs, particularly those with hills and forests, which were neither surveyed nor settled. The system of land revenue was either Bhagbatai, Vaje or Hol Narwa (plough tax). Under the Bhagbatai and Vaje systems, the State's share was fixed on an ad hoc basis. The caste of the cultivator (not the productivity of the soil) determined often the assessment payable by a particular cultivator.

There is another important factor about the rights of the cultivators. In several States like Idar, Sankheda Mewas and Pandu Mewas, cultivators were granted occupancy rights on payment of sakar, nazarana or market value with the result that they paid only land revenue assessment to the State. Care had to be taken to see that any legislation for abolition of the jagirs did not affect the rights of such cultivators.

Case for abolition:

The abolition of the jagirs became an urgent political, psychological and financial necessity after the merger of the big States and estates:

(a) politically, when the tall poppies like Hyderabad, Baroda, and Kolhapur had been cut and levelled down, these small estates could not be allowed to stalk the land;

(b) psychologically, the abolition was urgently required to create a healthy mental effect; and

(c) financially, the jagirs paid petty sums in the shape of Tanko, Tarai, Ankado, Rekh chakri, Thana varad, etc., even though the State Government had to bear the entire cost of administration in those villages. Thus, these estates were like imperium in imperio and required to be removed immediately.

For the above reasons, Government decided upon the abolition of these intermediate interests between Government and tillers of the soil. The Revenue Minister, Shri B. S. Hiray, introduced in the last autumn session a Bill to abolish the jagirs in the merged areas. The Bill, as published in the Gazette, underwent considerable changes during the second reading stage in the Legislative Assembly. It was passed by both the Houses of the Legislature and awaits the Presidential assent.*

The Bombay Merged Territories and Areas (Jagirs Abolition) Act, 1953.

The Bombay Merged Territories and Areas (Jagirs Abolition) Act, 1953 applies to the merged territories and merged areas in the Bombay State. The merged territories and areas are defined in section 2(1)(xii) and (xiii). Accordingly, the merged territories are those which have merged in the State under the provisions of sections 290 and 290A of the Government of India Act, 1935. The merged areas are those which are included in the State by the Bombay (Enlargement of Area and Alteration of Boundaries) Orders, 1947 and 1948 or the Bombay Enlargement of Area and Alteration of Boundaries (Amendment) order, 1948, as the case may be.

It should be clearly understood that the Act applies to the grants of entire jagir villages and not to the grants of scattered lands and cash allowances. They are left over to be covered by the omnibus legislation to be undertaken by Government.

* The comments are offered in the hope that the Bill will be enforced as an Act by the time the book is published.

Definitions:

Section 2 contains definitions. Only important definitions are considered here. The definitions of the terms "gharkhed land" and "to cultivate personally" are to be read together as the former includes the latter. Lands are to be treated as gharkhed only if they are held by a jagirdar as his personal property and cultivated personally by him. The definition of the expression "to cultivate personally" has been taken bodily from the Bombay Tenancy and Agricultural Lands Act, 1948.

The second set of important definitions relates to the terms "jagir", "jiwai jagir", "lifetime jiwai jagir", "proprietary jagir" and "non-proprietary jagir". The term "jagir" covers jiwai jagir, bhomia jagir, patawati jagir, jamaiya jagir, chakariat jagir, bhagena jagir, khalsa zamindari, mulgiras jagir, makta, saranjam, or political inams, life-time jiwai jagirs recognised by Government at the time of the merger, and the zamindari agreement jagirs. Before these definitions are dwelt upon, it is necessary to explain the treatment of the jagirs in the Act. To begin with, the Act divides first the jagirs into jiwai and non-jiwai. Jiwai jagirs may be hereditary or for life time. Then, the non-jiwai jagirs are divided into proprietary and non-proprietary according as the jagirdar has proprietary interest in the jagiri villages or not. The jiwai villages may either be proprietary or non-proprietary. Further, the hereditary jiwai jagirs are not separately considered here, because they were granted long ago and had ceased to be jiwai (maintenance) at the time of the abolition of the jagirs. Only such jagirs, which have been recognised by the State Government as continuable for the life-time of the holder in the over-all settlement of the Rulers' claims after the merger are considered here. Consequently, the jagirs, which were held hereditarily for generations, are abolished along with other jagirs. The jagirs, which were granted on the eve of the merger and recognised for the life-time of the holders in settlement of the Rulers' claims to private properties, are continued under the legislation according to the terms of the recognition given by the State Government.

As the interpretation of the above terms is likely to create difficulty, the Act empowers the State Government to decide the

category of jagirs or authorize any officer to decide it. In that case, his decision shall be subject to an appeal to the State Government.

Section 3 provides for abolition of all jagirs with the incidents. Section 4 subjects all jagir villages to the payment of land revenue in accordance with the provisions of the Land Revenue Code, and the Rules made thereunder; but this provision is not to affect the devesthan and dharmada grants and inams held for service useful to Government.

The Act recognises or confers occupancy rights on certain categories of persons in the jagir villages. In this process, separate provisions for the proprietary non-proprietary and life-time jiwai jagir villages have been made (sections 5 and 6). In all the three categories of villages, the following persons are recognised as occupants without payment of any occupancy price:—

- (1) jagirdars holding gharkhed lands,
- (2) permanent holders, and
- (3) a jagirdar or a jiwaidar, who is in actual possession of lands and who is cultivating lands personally by him in the proprietary jagir village.

But in the case of the category (3), if the lands are in possession of a person other than a permanent holder, that person is made eligible to the rights of occupancy on payment to the Jagirdar a sum equal to six times the assessment. This right is to be exercised within 2 years from the appointed date. In the non-proprietary jagir, a person, who was liable to pay rent to the jagirdar as an incident of the jagiri tenure, is also entitled to the occupancy rights on payment to the State Government a sum equal to six times the assessment. The sum is recoverable as an arrear of land revenue. The right of occupancy is conferred by the Act.

In the case of the life-time jiwai jagir village, persons, who were liable to pay rent to the jagirdar are conferred occupancy rights on payment to Government of occupancy price equal to six times the assessment.

In short, in these villages, the jagirdars will continue as occupants of the gharkhed lands and other lands in their actual possession on payment of land revenue to Government. As regards other inferior holders like permanent holders and tenants paying rent in respect of lands, which were not in actual possession of jagirdars, are made occupants. As a result, there may be practically no ordinary or protected tenants left in those villages. These provisions will have far-reaching effects on the land ownership in the jagiri villages and will result in the break-up of the substantial holdings of jagirdars and bhayats.

As already stated above, some jagir villages are surveyed and settled; and some are not. In order to provide for such villages, section 7 provides that until the survey and settlement are introduced, the land revenue shall be payable by the occupants as before. But in the case of villages where no assessment has been fixed, Government is empowered to levy assessment on the basis of the rates leviable in the adjacent areas.

Section 8 is quite similar to the provisions in section 6 of the Bombay Taluqdari Tenure Abolition Act, 1949. Sections 9 and 10 relating to right to trees and the jagirdar's rights to mines and minerals are also quite similar to those in the Salsette Estates (Land Revenue Exemption) Abolition Act, 1951. As they have been already dealt with in the Chapters concerned, they are not repeated here.

Compensation:

Sections 11 to 15 relate to assessment and award of compensation payable to the jagirdars and others under the Act. Section 11(1) deals with compensation payable in respect of the non-proprietary jagirs and sub-sections (2) and (3) with that payable in the case of proprietary jagirs. Section 12 relates to compensation payable to the life-time jiwai jagirdars.

The provisions regarding compensation require to be clearly understood. It would be better to tabulate the provisions for facility of understanding.

<i>Non-proprietary jagirs.</i> (Section 11 (1))	<i>Proprietary jagirs.</i> Sections 11 (2) & (3)	<i>Life-time jiwai jagirs.</i> (Section 12).
Compensation at three times the average amount of land revenue of the village.	(a) a sum equal to three multiples of assessment of lands held by permanent holders ; (b) a sum not exceeding three times the assessment in case of waste or uncultivated lands ; (c) a sum equal to one time the assessment in the case of lands used by the public ; and (d) market value of trees or structures on the lands.	a sum equal to ten times the average of the amount of land revenue received by or due to a jagirdar. Except this, no other compensation is payable to such jagirdars.

Compensation is not payable in cash but in transferable bonds at 3% interest redeemable during a period of 20 years in equated annual instalments of principal and interest.

Sections 16 to 21, 24 and 25 are analogous to the provisions in other Land Reform Acts. They are, therefore, not dwelt upon here.

Section 23 provides for taking over of the Jagirdar's records after resumption of the jagirs.

Section 26 saves the non-feudatory jagirs of the ex-Kolhapur State from the purview of the legislation, because they have been dealt with separately under the Resumption Rules framed by Government.

In short, the provisions of the Act follow generally the pattern of the Bombay Taluqdari Abolition Act in regard to the proprietary jagirs and the Bombay Merged Territories (Ankadia Tenure) Abolition Act, 1953, in respect of the non-proprietary jagirs. But some changes have been made in the provisions of compensation in favour of the proprietary jagirdars (section 11(2)) and life-time jiwai jagirdars (section 12).

Effects of the legislation:

It is estimated that the aggregate amount of compensation will be of the order of Rs. 71,62,211; but this amount is pay-

able during a period of 20 years in transferable bonds. In addition to this non-recurring expenditure, Government will have to incur recurring expenditure amounting to Rs. 8,89,547 on account of the additional administrative staff of patels, talatis, and inferior village servants. Many jagiri villages, which are unsurveyed and unsettled, will have to be surveyed and settled. These operations are likely to cost Government to the tune of Rs. 40,69,998; but this expenditure will be spread over a decade.

Against this expenditure, the recurring receipts are estimated at Rs. 46,88,471 and the non-recurring receipts on account of occupancy price payable to Government is not known at this stage. The financial effects are tabulated below:

Receipts.		Expenditure.	
Recurring.	Non-recurring	Recurring.	Non-Recurring.
Rs. 46,88,471	n.a.	Rs. 8,89,547	Rs. 40,69,998 (Survey and settlement).
			Rs. 71,62,211 (Compensation).
			Rs. 1,12,32,209

Thus, there is a net recurring gain of Rs. 38 lakhs every year which will cancel out the non-recurring expenditure of Rs. 112 lakhs within three years. Government will thereafter have a net additional land revenue of the order of Rs. 47 lakhs per annum. Thus, the measure is a paying proposition.

Administratively, the change is tremendous. The intermediary jagirdar is removed from the administration. Those, who are not the ryots of the jagirdars, cannot appreciate the enormity of the administrative effects of the legislation on the psychology of the ryots. The oppression and exactions of several dues under the jagiri system have been removed. One M.L.A. of the worst jagir-ridden area has observed that the Act is a "Magna charta" of the jagiri ryots, because the age-old burden of the feudal system is lifted from

the backs of the ryots, who will now be able to look up socially and economically. The village-folk were clamouring for the abolition of this system long before the merger. Now, that day has dawned after darkness of over a century. The ryots on the whole have practically emerged from the shell of slavery. Those villages, which hitherto presented a bleak and barren appearance without any industry or capital formation, will throb with a new life.

CHAPTER XIV

IMPLEMENTATION OF LAND REFORMS

1. *Importance of implementation.*

As the proof of the pudding lies in its eating, the real importance of the land reforms lies in their quick implementation after their enactment. Laws may be passed with the benevolent motives of abolishing intermediaries and thereby benefiting agriculturists; but if there is a time-lag between the passing of a law and its enforcement, it is quite possible that vested interests may manoeuvre to defeat the beneficent provisions of the legislation. In the circumstances, the most important thing, which requires the urgent attention of Government after passing a law, is its implementation without avoidable delay. Generally, in such reforms, implementation has two aspects, viz., (1) administrative arrangements in the wake of abolition of intermediaries and (2) inquiries for payment of compensation for modification or extinguishment of rights of tenurial holders. As regards the former, Government has to make arrangements to appoint additional staff at the village or taluka level to fill the vacuum created by the disappearance of intermediaries. As a result, additional staff of patels, talatis and inferior village servants at the village level and clerks, circle inspectors, etc., at the taluka level has to be appointed. Besides the staff, administrative arrangements like the introduction of survey and settlement and the Record of Rights is necessitated, as many villages concerned with such laws are unsurveyed and unsettled. These operations are absolutely necessary to bring the village administration on a par with that of the khalsa villages. As regards the latter, laws provide for the agency, (which is normally the Collector of a district or any other officer authorised by Government), for making inquiries into claims to compensation for the rights affected. Broadly speaking, the rights modified or extinguished under such laws relate to entire villages, lands, land revenue and cash allowances. The persons aggrieved have to apply in the prescribed form to the Collector of a district within six or twelve

months of the coming into force of a particular legislation. After formal inquiries into the claims, the Collector has to assess and award compensation to claimants. Appeals against the Collector's awards lie to the Bombay Revenue Tribunal and not to the civil courts. But there are certain Acts* in which such applications are not necessary; but the Collector is empowered to grant either the commuted value or compensation of the rights extinguished on the basis of specific provisions in the laws. Hitherto, the compensation was payable in cash generally and in the case of the Kulkarnis only, it was payable in transferable bonds, if desired. Recently, however, these provisions have been amended in order to provide compensation not in cash but only in transferable bonds carrying interest at 3% and redeemable during a period of 20 years in equated annual instalments of principal and interest.†

2. *Assessment of the operation and effects.*

In the above background, it is necessary to assess the results of the implementation of the various Acts passed by the Bombay State. So far, the following laws and rules have been enacted and enforced with effect from the dates shown against each of them. It is relevant to add that Government calls for monthly progress reports of the implementation of all these Acts in order to watch the progress from time to time.

<i>Name of the legislation.‡</i>	<i>Date from which brought into force.</i>
1. The Bombay Bhagdari and Narwadari Tenures Abolition Act, 1949	5th August 1949.
2. The Bombay Maleki Tenure Abolition Act, 1949	1st March 1950.
3. The Panch Mahals Melhwassi Tenure Abolition Act, 1949	15th March 1950.
4. The Bombay Taluqdari Tenure Abolition Act, 1949	15th August 1950.
5. The Bombay Khoti Abolition Act, 1949	15th May 1950.
6. The Bombay Paragana and Kulkarni Watans Abolition Act, 1950	1st May 1951.
7. The Bombay Watwa Vajifdari Rights Abolition Act, 1950	1st October 1951.

* Section 6 of the Bombay Paragana and Kulkarni Watans Abolition Act, 1950.

† The State Legislature has passed a Bill to amend certain Land Tenures Acts to provide payment of compensation in transferable bonds. It has been enforced as an Act.

‡ For detailed discussion of the Acts at serial numbers 1 to 5, please see the author's book "Agrarian Reforms in Bombay."

<i>Name of the legislation.</i>	<i>Date from which brought into force.</i>
8. The Salsette Estates (Land Revenue Exemption) Abolition Act, 1951 ...	1st March 1952.
9. The Bombay Saranjams, Jahagirs, and other Inams of Political nature, Resumption Rules, 1952 ...	1st November 1952.
10. The Bombay Personal Inams Abolition Act, 1952 ...	1st August 1953.
11. The Bombay Merged Territories (Ankadia Tenure) Abolition Act, 1953 ...	15th August 1953.
12. The Bombay Merged Territories (Baroda Watans) Abolition Act, 1953 ...	15th August 1953.
13. The Bombay Merged Territories (Baroda Mulgiras Tenure) Abolition Act, 1953...	15th August 1953.
14. The Bombay Merged Territories (Matadari Tenure) Abolition Act, 1953 ...	1st January 1954
15. The Bombay Kauli and Kutuban Tenures Abolition Act, 1953 ...	15th August 1953.
16. The Bombay Merged Territories (Jagirs) Abolition Bill, 1953 ...	Awaits Presidential assent.
17. The Bombay Service Inams (Useful to Community) Abolition Act, 1953 ...	1st April 1954
18. The Bombay Merged Territories (Janjira and Bhore Khoti Tenure) Abolition Act, 1953 ...	Not brought into force yet.
19. The Bombay Merged Territories (Baroda Salami Tenure) Abolition Act, 1953 ...	1st August 1954
20. The Bombay Land Tenures Abolition (Recovery of Records) Act, 1953 ...	7th October 1953.

Some of the Acts are implemented and some are in the process of implementation. It is, therefore, of special interest to review briefly the working and results of each Act.

(1) The Bhagdari and Narwadari tenures were found only in the districts of Broach, Kaira, Panch Mahals and Surat. They were a method of collecting land revenue only and did not involve any alienation of land revenue by Government. On abolition of these tenures, there was no gain to Government on account of land revenue. At the same time, Government had to make no alternative administrative arrangements and had to pay no compensation. The change-over to the ryotwari tenure was, therefore, quite easy.

(2) The Maleki villages in the Thasra taluka (district Kaira) were on the ryotwari tenure, but the Maleks had certain rights to the nakru lands, Kothli santh allowance and seven/nine annas share in the revenues arising out of the Vajeli lands of those villages. In regard to implementation of the Act, the

Collector has completed all inquiries into claims to compensation and it is understood that awards have been declared. It is estimated that the compensation payable to the Maleks is likely to be of the order of Rs. 84,000. Practically, no administrative arrangements are required to be made in these villages. In short, on implementation, the cost on account of compensation only will have to be incurred by Government.

(3) The Act relating to the abolition of Mehwasasi tenure is completely implemented during the year 1952. Except the appointment of a few talatis and compensation amounting to Rs. 8,000 (approx.), no expenditure has been incurred by Government.

As the lands in the mehwasasi villages were subject to full assessment, the abolition of the tenure would not yield any fresh revenue. One of the reasons why the Act could be easily implemented has been that the Mehwasdars as a class are ignorant and impoverished with the result that, like the Maleks, the Talukdars and the Khots, they could not afford to go to the High Court to challenge the validity of the Act.

(4) The resistance came first from the Talukdars of Gujarat, who through misapprehensions, filed applications in the Bombay High Court against the Act in May 1951 and obtained a stay order against its implementation. The implementation work had to be held in abeyance till the stay was vacated in December of that year. Thereafter, three small estates have obtained a stay order from the Supreme Court. Except these estates, the Act is being implemented in other talukdari villages. Before the Act was challenged, Government had **already** appointed the additional staff of Circle Inspectors, Talatis, patels and inferior village servants in the ex-talukdari villages. During the stay order, the additional staff had to be diverted to the other revenue work. After December 1951, the work of implementation was taken up but could not make headway owing to the pre-occupation of the Collectors with their routine duties. In order to assist the Collectors, Government has now appointed two Special Deputy Collectors for quick implementation of the Act. Except the introduction of rough Record of Rights in the former talukdari villages, practically no progress has been made so far. The Special Deputy Collectors have been

directed by Government to measure and map out the waste and uncultivated lands that have vested in Government under section 6 of the Act. This done, they have been enjoined to inquire into the compensation claims, which are of the order of over Rs. 2 crores. In order to quicken the tempo of implementation, the Legislature has amended* this and other Acts in order to enable Government to appoint any officer other than the Collector of a district for assessment and award of compensation. The two Special Deputy Collectors have been authorised to conduct inquiries into the compensation claims. In this way, a great bottle-neck has been removed from the process of implementation. Inquiries into the compensation claims are going ahead now.

(5) In implementation of the Bombay Khoti Abolition Act, the same difficulties were encountered. The Khots challenged the validity of the Act and the Bombay High Court granted a stay order. That order was vacated in December 1951. At present, there is no impediment to the implementation except one civil suit filed by the Kolaba Khots in the Civil Court at Alibag. The implementation of the Act has three aspects, viz. :—

- (a) determination of the commuted value of the Khot's faida payable by tenants to the Khots (section 5).
- (b) conferment of occupancy rights on tenants of khoti nisbat lands (section 4) and
- (c) inquiries into claims to compensation (section 12).

As regards (a), the Mamlatdars have completed inquiries in one-third of the area. This is because they are pre-occupied with other revenue, magisterial and civil supply work. In order that this aspect may be promptly attended to, Government has appointed a few Mamlatdars in both the Ratnagiri and Kolaba districts.

With regard to (b), it is noticed that the tenants in Khoti nisbat lands in Kolaba and protected or ordinary tenants in possession of Khoti Khasgi lands in Ratnagiri have been conferred occupancy rights on payment of occupancy price equal to six times the assessment of the land. The average assess-

* Bill to amend certain Land Tenures Abolition Acts, 1953.

ments per acre in Ratnagiri and Kolaba, respectively, are Re. 0-9-5 and Rs. 2-4-7.* The amount of occupancy price calculated on this basis is practically nominal in comparison to the market value of the same. This is the lasting benefit conferred on the tenants by the Act.

Lastly, as regards (c), compensation inquiries in the Ratnagiri and Kolaba districts are well-nigh completed. The amendment to the Act to enable the two Special Deputy Collectors, who are appointed for the work, has quickened the progress of implementation. Many awards have been declared by them.

Along with these operations, the work of introduction of the Record of Rights in the villages, where it has not been so far introduced, is going on. It is estimated that all the provisions of the Act will be implemented by the end of this year (1953).

(6) and (8) As regards the Act relating to the abolition of the paragana and kulkarni watans and the Salsette estates, the stages reached in implementation have already been indicated in their respective chapters before.

(7) But a word is necessary about the Bombay Watwa Vajifdari Rights Abolition Act, 1950. It relates to one village Watwa in the Ahmedabad district. The Vajifdars had certain inam rights in the village. The British, on cession, recognised those rights but treated the village as on leasehold tenure. An agreement was executed between the British Government and the Vajifdars in about 1864-65 and was renewed in 1898-99 for a period of 21 years. Although the agreement expired in 1919-20, the British did not renew the same; but allowed the village to continue in the management of the Vajifdars thereafter. According to clause XVIII of the agreement, the Vajifdars had three surviving rights; viz.,

- (1) three annas in every nineteen annas of the net collections of the land revenue on cultivated lands in the village;
- (2) the bagayat kasar on wells sunk by the Vajifdars; and

* Please see the author's "Agrarian Reforms in Bombay", p. 136.

- (3) the profit on trees (i.e. six-annas share from the fruit bearing trees).

Government abolished these rights by enacting a special legislation. The claims to compensation are under investigation by the Collector of Ahmedabad. The work is likely to be completed very soon. The aggregate amount of compensation has been estimated at Rs. 15,000 on the basis of the revenues realised by the Vajifdars under section 4 of the Act.

(9) The Bombay Saranjams, Jahagirs, and other Inams of Political nature, Resumption Rules have been brought into force recently. Under rule 6, all the saranjam villages are vested in Government from 1st November 1952. Under that rule, inferior holders, who used to pay to the Saranjamdar only assessment, are recognised as occupants within the meaning of the Land Revenue Code. As they were virtually occupants, no occupancy price is charged for recognition of this right. Now, the lands, which are in the actual possession of the saranjamdar in accordance with the provisions of Rule 6(2)(a) will have to be set apart and so recorded in the Record of Rights. Lastly, compensation as provided in Rules 7 and 8 for abolition of the cash allowances will have to be paid in transferable bonds for the sake of uniformity. The rules are amended to provide for this.

The Acts shown at S. Nos. 10 to 15 and 20 have been brought into force quite recently. The Act at S. No. 16 awaits the Presidential assent.

The above is a general survey of the implementation of the Acts already passed by Government from February 1949 to December 1953. The Bombay Bhagdari and Narwadari Tenures Abolition Act and the Panch Mahals Mehwassi Tenures Abolition Act have been completely implemented. Those relating to the paragana and kulkarni watans, the Maleks, Khots and Vajifdars are nearing completion. The implementation of the Taluqdari Tenure Abolition Act may be practically said to have begun now. The abolition of the Salsette estates, the saranjams and other tenures have been enforced pretty recently. The two major impediments to the implementation of the Acts, viz., (a) payment of compensation in cash and (b) compensation inquiries, have been removed by amending the

Acts by providing payment in transferable bonds and delegation of the Collector's powers to any other officer. Government is actively considering the issue of transferable bonds of different denominations in consultation with the Reserve Bank of India. In implementation work, appointment of an official well-versed in, or having an aptitude for special duty of this type goes a great way in quickening the pace of progress.

3. *Financial results.*

It is useful to know the financial results of these enactments. They are both important from the points of view of Government and the students of agricultural economy. They have a wider interest in that other State Governments are watching the scheme and progress of our agrarian reforms. For these reasons, it is proposed to state the receipts and expenditure of all the Acts in round figures. (See pp. 201-2.)

The above statistics of receipts and expenditure furnish an eloquent testimony to the financial feasibility of the agrarian reforms of the Bombay State. The recurring receipts of Rs. 111 lakhs cancel out the recurring expenditure of Rs. 25 lakhs and leave a balance of Rs. 86 lakhs every year. The non-recurring receipt of Rs. 117 lakhs is on account of the occupancy price Government would get under section 4(1) of the Bombay Pargana and Kulkarni Watans Abolition Act and abolition of the Baroda watans. It does not include the amount of nazarana payable at 20 times the amount of assessment of the lands when they are sought to be made partible or heritable. Perhaps, this amount will be considerable, but will accrue to Government only when the occupant desires permission for making the lands transferable. Taking this amount into consideration, the aggregate amount may be in the neighbourhood of Rs. 150 lakhs. On this basis, the non-recurring expenditure of Rs. 443 lakhs is thrice the amount of the non-recurring receipts of Rs. 150 lakhs. However, as the amounts of compensation are not payable in cash but in transferable bonds bearing 3% interest and redeemable during a period of 20 years in equated annual instalments, the cost of compensation will be spread over 20 years. This method of redemption will operate as a sinking fund and insulate any tendency of inflation.

Statement A

S. No.	Name of the Act	Annual Receipts.		Annual Expenditure.	
		Recurring.	Non-recurring.	Recurring.	Non-recurring.
1	2	3	4	5	6
1.	The Panch Mahals Meh-wassi Tenure Abolition Act, 1949 ...	...	...	...	8,000
2.	The Bombay Maleki Tenure Abolition Act, 1949 ...	35,000	...	...	84,000
3.	The Bombay Taluqdari Tenure Abolition Act, 1949 ...	9,23,000	...	1,27,000	2,20,00,000
4.	The Bombay Khoti Abolition Act, 1949.	...	Some thous- and rupees on account of occupancy price from tenants.	55,000	10,25,000
5.	The Bombay Paragana and Kulkarni Watans Abolition Act, 1950 ...	9,00,000	1,12,00,000 plus amount of nazarana at 20 times the assess- ment.	13,00,000	57,11,000
6.	The Bombay Watwa Vajif-dari Rights Abolition Act, 1950 ...	16,600	...	...	15,000
7.	The Salsette Estates (L.R. Exemption) Abolition Act, 1951 ...	4,75,000	...	35,000	66,000
8.	The Bombay Sar a n j a m s , Jahagirs, and other Inams of Political nature, Resumption Rules, 1952 ...	4,80,000	...	...	8,68,000
Total ...		28,47,600	1,12,00,000	15,17,000	2,98,08,000

Statement B

S. No.	Name of the tenure abolished under legislation.	Receipts		Expenditure	
		Recurring	Non-recurring	Recurring	Non-recurring
1	2	3	4	5	6
1.	Personal inam...	30,24,677	Nil	Nil	24,00,741
2.	Ankadia Tenure	1,63,000	Nil	56,000	5,74,000
3.	Matadari tenure	40,000	Nil	13,000	53,400
4.	Kauli & Katurban tenures...	5,000	Nil	Nil	Nil
5.	Mulgiras ...	1,39,000	...	3,600	35,000
6.	Baroda Watans.	40,000	5,62,000	Nil	7,90,000
7.	Jagirs ...	46,88,471	N.A.	8,89,547	71,62,211
8.	Service Inams.	1,46,711	Nil	Nil	2,73,245
9.	Janjira Khoti.	Nil	Nil	Nil	Nil
10.	Salami ...	12,125	Nil	Nil	Nil
Grand total of Statements A and B		1,11,06,584 or 1.11 crores	1,17,62,000 or 1.17 crores	24,79,147 or 2.5 crore	4,42,96,597 or 4.43 crores

Note: The above figures are approximate and the net recurring receipts in column 3 do not include the huge amounts of cash allowances, non-payment of which is a purely negative gain.

The socio-economic effects have been dealt with at their proper places and are, therefore, not dwelt upon here.

4. *Administrative effects.*

From the administrative point of view, the changes are most beneficial and conducive to smooth administration at the village and taluka levels. In view of the complexity of the land and inam tenures, disputes about possession, heirship inquiries, etc., were so frequent and complicated that much of the time of the village and taluka officers was taken up in making such inquiries and reporting matters to higher authorities for orders. With the abolition of these special and privileged tenures, the disputes have come to an end. As a result, the work has been reduced at all levels—village, taluka and district and the officers now find time to attend to other pressing problems of administration and development projects.

Secondly, these tenures were a great snag in the survey and settlement operations, as was experienced by the settlement officers during the original and revision settlements. In view of the juxta-position of these lands with the ordinary ryotwari

ones, it became very difficult for the settlement officer to arrange grouping of villages and to fix the maximum rates. This difficulty was particularly felt in the settlement operations in the talukdari and maleki villages. The result was that large concessions which could not have been considered justifiable in the case of the ryotwari lands and villages were granted by Government. Consequently, Government had to undergo a substantial loss of revenue. Now that these hurdles have been removed, the work of settlement of land revenue would be much facilitated in future.

Thirdly, from the point of consolidation of holdings, different tenures which were interspersed with the ryotwari tenure were a great headache to the consolidation officers. In view of the privileges attached to the tenures, the holders were unwilling to part with the lands for the purpose of consolidation. No such difficulty now remains in the path of consolidation.

In short, apart from the substantial increase of land revenue to Government, there has been a general streamlining of the administration in the areas covered by the Acts.

5. *Suggestions.*

The foregoing review has revealed that the pace of implementation of the land reform legislation has not been as quick as one would expect. The impediments that lie in the process require to be removed without further delay. To begin with, the time-lag between the passing of the Bill by the State Legislature and the Presidential assent is normally 4 to 5 months and sometimes 8 to 9 months. During this interval, the tenurial holders know the provisions of the legislation and manoeuvre in a manner prejudicial to the interests of Government and cultivators. This tendency was particularly noticed in the case of the Khoti, talukdari, Salsette khoti and other villages. Considerable waste and uncultivable areas, which could have vested in Government or gone to cultivators on occupancy tenure were appropriated by the holders of these villages. The local administration was also not quick to grasp the new situation. This state of affairs can be avoided if some machinery is devised to shorten the period for according the Presidential assent.

There is another important reason for the slow implementation of the Acts. In view of the multifarious duties of the district and taluka officers and the technical nature of the laws, the Acts are not properly understood at the lower levels. This results in avoidable correspondence between the Collectors and Government. After the abolition of the Divisional Commissioners, the Collectors have no intermediate authority to guide and advise them in such and other matters of local importance. In the nature of things, it takes some time for Government to consult other departments like the Legal and Finance Departments and to give replies to the issues raised by the Collectors. Under the circumstances in which the Collectors are placed at present, these difficulties can be removed by issue of detailed instructions regarding the new legislation before it is enforced and periodical assessment of the implementation on the spot by the Secretariat officers after its enforcement. Calling for monthly progress reports from the Collectors and issuing instructions cannot remove the bottlenecks at the village level. Local problems such as vesting certain lands in Government, etc. are more often than not questions of fact and not of law. They can be very quickly and easily solved on the spot during periodical visits. A little advice on the spot is worth more than a ton of long-range correspondence.

Lastly, enthusiasm for implementation is sadly lacking and should be created by constant propaganda not only by Government officials but by the local members of the Legislature and party workers. In this respect, the example of the Chinese agrarian reforms should be emulated and the village people and all concerned should be inspired by a sense of new responsibility, which should be shared and discharged by all. The present tendency that the implementation of agrarian laws is the responsibility of the Government officials only is deplorable and the sooner it is removed, the better. All should feel that the old order is changing yielding place to new and unless this sense of urgency and enthusiasm is created in the villages, the pace of progress of the reforms is bound to be slow and the results not to the expectations of Government. We should not forget that nothing is achieved in the world without faith and enthusiasm.

PART II

CHAPTER XV

THE BHOODAN YAGNA

1. *Introduction.*

During the last two years, the atmosphere in India is surcharged with the Bhoodan movement inspired and advocated by Shri Vinoba Bhave, the spiritual successor of Mahatma Gandhi. The Bhoodan means land-gift and the gift is to the landless. According to Shankaracharya, the expression 'dan' (दान) does not mean donation but distribution (दानं संविभागः). The Dan is not charity. When the idea of the Bhoodan was mooted and took a concrete shape in the Telangana district in Hyderabad in April 1951, many leaders of political, economic and social thought began to pooh-pooch the plan and the press took little or cursory notice thereof. Some even dismissed the idea as a bee in the bonnet of Shri Bhave and some went to the length of calling it madness. But during the last 2 years, the movement has developed from strength to strength and people have now begun to discover a method in Vinobaji's madness. In view of the unprecedented character of the movement, Shri Nehru has aptly described it as an unusual movement, "a strange phenomenon, which cannot be explained by economists or other experts". As the movement is aimed at solving the problem of the landless in India, it is, therefore, proposed that this book on the land problem must consider this movement in all its bearings.

2. *Origin of the movement.*

The origin of this great idea is traced to Mahatma Gandhi by Dr. Sushila Nayyar.* While Mahatmaji was taking his evening walk in the compound of Aga Khan's bungalow during his detention, Miraben (Miss Slade) asked Bapu, "How will land be distributed after Swaraj?" Bapu replied, "Land will be owned by the State. I presume the reins of Government will

* Dr. Sushila Nayyar : बापुकी कारावासकी कहानी, p. 384.

be in the hands of those, who have faith in this ideal. A majority of Zamindars will give up lands willingly. Those who do not do so will have to do under legislation". To this, Miraben said, "Then the first step will have to be to educate public opinion?" Bapu replied, "It has already been educated. It is almost ready today".

It was in the fitness of things that as a spiritual successor of the Mahatma, Vinobaji caught the idea and developed it into a national movement. The circumstances in which the idea took root in his mind are very interesting. In his itinerary, Vinobaji toured in April 1951 the communist-ridden areas of Telangana, Warangal and Nalgonda of the Hyderabad State. On the 18th April 1951, he reached Pochampalli, where some Harijans requested Vinobaji to grant land as they had no means of maintenance. During inquiry, it was noticed that the aggregate area of the village lands was 2,500 acres for a population of 3,000. This worked out to $\frac{5}{3}$ acre per head. The Harijans worked as labourers, who were given 1/20th part of the produce plus a blanket and a pair of shoes. Further inquiry revealed that they wanted 80 acres of land, 40 dry and 40 wet. Vinobaji thereupon asked the villagers whether they would do something for the Harijans, if Government failed to grant the lands. Then, Shri Ramchandra Reddi stood up and offered a gift of 100 acres in fulfilment of his father's wishes to donate land to the Harijans. Vinobaji accepted it and said that that would solve the communist problem. In this small incident, we have to trace the origin of the Bhoodan movement. Even Vinobaji might not have dreamt that this small land-gift would develop into a movement throughout the length and breadth of India. Thereafter, Vinobaji toured the Vindhya Pradesh, U.P., Bihar, etc. and propounded the idea of the Bhoodan movement. He even explained the same to the members of the Planning Commission. It now forms an important plank in the programme of the Sarva Sewa Sangha. It is very interesting to know the aims and objects and the gradual development of the mission. At no place, the idea was explained in its entirety obviously because the idea itself was in the formative stage, and had not reached finality.

3. *Aims and objects.*

The aims and objects of the movement as revealed in Vinobaji's different speeches are as follows. To him, it is not only a movement for distribution of land to the landless, but it is a first step towards renouncing the right of ownership in land. It is an appeal for social justice for the under-privileged and the under-dog. According to Dr. Radhakrishnan, Vinobaji is preaching the "Law of Love" in the place of the "Law of the Jungle". It is "a loot by love". It is a phenomenon inspired by God. It is a vision of Ahimsa, and an experiment with the non-violence of the Mahatma. It is a Prajasuya Yagna. Its fundamental assumption is that like air, sun and water, land belongs to God and should be socially owned. माता भूमिः पृथिव्याः। Land is the mother of those on the earth. It is conceived as a first step towards the Sarvodaya. It aims first at change of heart, then of life and then of the Society. All the gifts of land are to be obtained not by compulsion, agitation, or application but by persuasion and non-violence. Vinobaji believes that his movement is a historical necessity, as it clearly appears from its origin in the communist-infested area of Hyderabad. He clearly says,

"My movement is not to stave off a revolution. I want to prevent a violent revolution and create a non-violent revolution. The future peace and prosperity of the country depend upon the peaceful solution of the land problem. My attempt is to create an atmosphere in which the limitations in the Constitution can be got rid of. The Zamindars can be made to agree that they cannot get full compensation and that they should be satisfied with getting what was enough for them."

The rationale of the movement has been very ably explained by the late Shri Kishorilal Mashruwala.* There is extreme inequality in the distribution of lands and this fact has given rise to many burning problems of political and socio-economic nature in India as elsewhere. So far, Government has adopted twin measures to reduce this inequitable distribution of lands: viz. (1) abolition of the Zamindari system and special land tenures and (2) laying down the limits of a maximum holding.

* The Harijan dated 1st September 1951 : The Land Problem of Hyderabad.

But the provisions of compensation as embodied in the Constitution have set a great limit to the enactment of agrarian reforms. This has led the Socialists to criticise that "this has made the abolition of Zamindari almost meaningless in practice. Financially, the proposition is ruinous. Even in equity, the Zamindars have no right to huge unearned increments the title to which is dubious". (Platform of the Socialist Party).

These two measures do not solve the problem of landless labourers, who aspire to acquire the occupancy rights of the lands they cultivate. This class can get lands only if Government grants them virgin lands or acquire a portion of the privately owned lands for distribution. In the latter case, the principle of compensation creates complications. This situation has given rise to the Communist principle of forcible expropriation preceded by a violent revolution. Vinobaji's mission has shown a third alternative. He appeals to the noble urge in man to donate land and the appeal has succeeded sufficiently enough to show that in this materialistic age, a man is not a lost soul. This explanation is sufficient to show the moral and non-violent basis of the movement.

In order to give fillip to the movement, the Congress Pradesh Committees have been formed with targets fixed for each pradesh. For the entire country, the target is fixed at 5 crore acres to be achieved by the next general election in 1957 and $2\frac{1}{2}$ crore acres are to be obtained by March 1954. The target of 5 crore acres represents roughly one-sixth of the total cultivable land in India. There are 5 crore landless labourers and each will get at least one acre in this scheme. The targets fixed for the three Pradeshas of the Bombay State are as follows:—

Karnatak	(not fixed)
Maharashtra	1,00,000 acres
Gujarat	75,000 acres in first instalment.

Shris Timappa Naik, Annasaheb Sahasrabudhe and Jugatram Dave have been appointed respectively conveners of the Bhoo-dan Committees for the three Pradeshas. As in other States, the work has been started in right earnest in the Bombay State. Although Pradesh Committees are appointed, the major burden of the movement is borne by Vinobaji himself. It is quite

likely that other persons cannot generate as much enthusiasm as Vinobaji. The Sarva Sewa Sangha has accepted the responsibility of carrying forward the torch of the Yagna by its resolution at Sevapuri. The movement is not confined to the Congress party alone, but affords a common platform for all political parties in India. The Socialists headed by Jay Prakash Narayan, Acharya Kriplani and others have welcomed the movement and issued directives to their regional units to join the movement, which to them is "an instrument of peaceful economic revolution". According to Shri Jay Prakash Narayan, the distribution of land is "the greatest issue of the moment". As schemes for increasing yield from lands have failed as the tenants felt that beneficiaries would be the owners of big farms, Dr. Lohia advocates that the land distribution should precede the Grow More Food Schemes of Government. Only the Communist and Peasants and Workers Party in Maharashtra have opposed it for reasons to be discussed presently. Apart from this minority group, the movement has struck a sympathetic chord all round. The latest development is that the members of the Parliament of all shades have pledged themselves to help the movement and have formed a Committee with Dr. Radhakrishnan as Chairman.

The *modus operandi* of the movement is quite simple. The lands are received from all sorts of people, whether big Zamindars or small landholders, whether Hindu, Muslim or Christian. So far, the least area donated has been .05 or .10 acre and the maximum grant has been of $7\frac{1}{2}$ thousand acres of lands from the Maharaja of Kashi, who has besides promised donation of $2\frac{1}{2}$ thousand acres.

Recently, Vinobaji has announced his programme of the Yagna. Its principal planks are as under:—

1. Efforts should be made to obtain enough land from each village.
2. All kisans should be persuaded to contribute their share in the Yagna.
3. All lands so obtained should be redistributed in the village.
4. Apart from land, money and other gifts might be obtained.

5. Literature on the yagna should be made available.
6. The Sarva Sewa Sangh centres should be started in the country.

The above programme contains the salient features of the movement.* Along with the Bhoodan movement, he has started the Sampattidan movement also.

4. *Programme of distribution.*

The programme of distribution has been essentially the same throughout India but subject to local variations. In response to many inquiries, Vinobaji himself has explained the principle of distributing the lands donated.† A Land-Gift Committee has been appointed for each State for the lands received during the tour. Generally, land is distributed to local landless peasants. It is given to such persons who have no other means of livelihood and who can do land-labour. The extent of the area to be given depends upon the agricultural conditions of the State. For example, in Hyderabad, a family of five is given generally one acre of wet or five acres of dry land. The same proportion is likely to be fixed for the Uttar Pradesh. In short, the factors which should be taken into consideration at the time of distribution of lands are (1) poverty, (2) landlessness, (3) capacity to till land and (4) desire to have land and to look after it.‡

For this purpose, every member of the Committee has to visit every village in which the lands are to be distributed, and distribution is made amongst the deserving persons in the presence of the villagers. The first preference is to be given to the Harijans, other backward classes and those who have experience in agriculture, and about whom the villagers feel confident that they would serve the land in a proper manner. The giving away of the land will be 'like the giving away of a bride.' The receiver of the land is enjoined not to sell it for a period of ten years. Attempts are being made to get the documentary formalities of the transactions carried out without stamp duty, the registration fees, etc., and different Governments have acceded to the framing of necessary laws or rules for the purpose.

* The Times of India Press report dated 13-4-1953 from Patna.

† The Harijan dated 12-4-1952: Distribution of Gifted lands.

‡ Agricultural Situation in India, June 1952.

The gifted lands are of three categories as follows:—

(1) Some lands are under the personal cultivation of the donor. Large areas of this type are received and are directly donated to the landless.

(2) There are some lands, which though cultivable are not under cultivation at present. The owners of such lands are requested to gift away all such lands after breaking them with tractors or ploughs. Some donors have acceded to the request. If the donor is unable to do so, such land is broken with the help of either Government, or monetary donations, or the free labour of volunteers.

(3) The last category is of lands which are cultivated by tenants, who might be large cultivators with sub-tenants or who may be small cultivators. In the case of the former, the big tenants are requested to donate their tenancy rights; in the case of the latter, the small cultivators are made full owners.

Besides, the movement has another important phase. Wherever the Zamindari is being abolished, and the Zamindars are to receive compensation, the Committee requests for the gift of the compensation. Some donations of this type have been received. Although token donations they may be, they have a tremendous psychological value. The compensation money is not received directly by the Committee; but the Government concerned is informed about the amount of compensation of the lands concerned, in order that Government can deduct the amount of compensation donated and that the savings may be utilized for rehabilitation of landless peasants.

Besides, donations in cash are also received. When Vinobaji was asked the reasons for receiving or asking for money, he explained his attitude as under:

“The answer is that I am not going to take charge of it (money); nor will I shoulder the responsibility of managing and spending it and keeping the accounts. I will remain free as always. I also do not envisage creating trusts as is often done in the case of funds collected for public good.... I have therefore decided that the money will remain with the donor himself, but he will use it as we want him to do and annually render us the account. It means that the donor will not only

donate a portion of his property, but also give us the benefit of his skill and intelligence in the use of it.''* Despite this, the donor is free to make suggestions about the way in which the money should be used. Despite this procedure, Vinobaji feels that this method has not the legal safeguards which a trust can have. But in the nature of things, trusts of such donations are not easy to form. Man's sincerity is the only safeguard against abuse or misuse of the money so retained with him.

It is a significant circumstance that even small cultivators have contributed their mite towards the progress of the movement. Of course, they are tokens of love. Some of the plots are as small as .05 or .10 acre as stated above. In such cases, attempts are made to find a rich man who can have such plots and give in exchange a consolidated parcel of land, which can be given to the landless. In the event of a rich man being not available, alternative arrangements are made to have such parcels of lands cultivated by the villagers and the produce used for the benefit of the poor.

The entire distribution process has been likened to the marriage ceremony by Vinobaji. Just as a man, who wants to marry his daughter, searches for a suitable bridegroom, a diligent search is made for cultivators or persons deserving land-gifts. After solemnizing marriage of a daughter, a father gives jewellery and other gifts to her; similarly, the Committee has to arrange for other necessities of the tiller, a pair of bullocks, seeds and other agricultural needs.

After the above formalities are gone through, the revenue officials complete the registration and other legal formalities.

Vinobaji has emphasized times without number that his movement does not aim at the solution of the entire land problem of India, but its objective is to pave the way or create an atmosphere for the easy passage of land reforms. It is meant to supplement and not supplant the land reform legislation of Government. Recently, the Prime Minister has emphasised that this campaign can in no case take the place of legislation. This limitation should be borne in mind for understanding the movement from its proper perspective.

* Vinoba's article "All wealth belongs to God", the Harijan of 29th November 1952.

In view of this background, many State Governments have already framed laws or rules in support of the movement. As the movement was started first in Hyderabad, that Government framed rules for regulating the distribution of the donated lands. The rules provide that on the receipt of the rajinamas donating land, the Tahsildar has to obtain a report and ascertain whether any amounts are due to Government either as arrears of land revenue or otherwise. Rajinamas are accepted only on completion of the inquiry. The lands thereafter vest in Government. Then the Committee selects persons to whom lands are to be granted. The grant is subject to the condition that if a co-operative farmers' society is formed in that village, the recipient will have to join it. Secondly, he cannot sell the lands for ten years. Thirdly, if the land granted is cultivable waste, and the grantee reclaims it and commences cultivation within two years of his receiving possession, it will be exempt from payment of land revenue for the first three years. Lastly, such transactions are exempt from stamp fees or registration charges. As regards the actual distribution of lands, 5 lakhs acres collected by January 1953 have been equitably distributed among 40,000 persons.*

5. *Bhoodan legislation.*

Recently, the U.P., M.P. and Orissa Governments have enacted legislation on generally the same lines. To begin with, the U.P. Government has recently passed the Bhoodan Yagna Bill which seeks to facilitate donations and settlement of lands in connection with the Yagna. It provides for the establishment of a Bhoodan Yagna Committee for the State with a Chairman nominated by Shri Vinobaji subject to the approval of Government. The Committee has to administer all lands vested in it in the Yagna. The legislation was undertaken because the donations made by the Zamindars were defective according to the provisions of section 23 of the U.P. Zamindari Abolition and Land Reforms Act, 1950. The tenants did not possess any rights to transfer their lands by gift. The law was enacted to remove these difficulties.

* Shri Shankerrao Deo's statement of 20-1-1953 in Bombay; vide the Times of India dated 21-1-1953.

In order to appreciate the legal aspect of the Yagna, the provisions of the Bill are summarized. It is pertinent to note that besides the owners of land, tenants with heritable and transferable interest in land are eligible to donate their rights. The donation is to be made by a declaration in writing called the Bhoodan declaration, which is to be filed with the Tahsildar. On receipt of the declaration, the Tahsildar has to publish the same for inviting objections if any and make summary inquiry as to the right, title and interest of the donor in such land. Any person, whose interests are affected by the declaration, has to file objections within 30 days before the Tahsildar, who has to register all objections. The objections are investigated in the presence of the declarant, the objector and the Gaon Panchayat. If the objections are not proved, the Tahsildar confirms the declaration, and if they are proved, he supercedes the same.

Donations of certain categories of lands are prohibited, viz.,

(a) land which forms part of holding held jointly by two or more tenure holders unless all the tenure holders agree to the declaration;

(b) lands which on the date of declaration are recorded as common pasture lands, cremation or burial grounds, tank, pathway, or threshing floor; and

(c) such other land as the State Government may by notification in the Gazette specify.

Donations of land made prior to the enforcement of the legislation are also brought within the purview of the Act.

In 1953, April, the Madhya Pradesh Government passed unanimously the Bhoomidan Yagna Bill. As usual, the Bill provides for the constitution of a board, the members of which are to be nominated by Vinobaji. However, the State Government has reserved the right to dissolve the board, if it did not function properly. In that contingency, Government is empowered to reconstitute the board or to appoint a special authority to discharge its functions. Intending donors have to apply to the board. A revenue officer attached to the board has to make necessary inquiries and pass orders for the transfer of land. After the gift is approved, all the rights of the donor

in the land pass on to the board. The board is empowered to grant leases. Such lands are not liable to attachment or sale. If the lessee violates any conditions of the lease, he is liable to eviction. After ten years of continued possession, the donee will secure full title to the land. This is the reason why he is not allowed to sell the land for ten years after receiving the gift. The Chief Minister assured the House that all the lands taken over by Government as a result of the Malguzari Abolition Act would be entrusted to the board for distribution to the landless.

In Orissa also, the State Legislature has passed a similar Bill as reported by the Select Committee. All the parties except the Communists welcomed the measure. As the provisions of the Bill are similar to the Bills passed by other State Governments, there seems no need to repeat them here. Winding the debate, the Chief Minister said that the Bill was a purely temporary measure to help the Bhoodan movement. In Madhya Bharat also, such a legislation has been enacted. In Bihar, the Bhoodan Yagna Bill on the lines of the U.P. legislation was introduced in the State Legislature in September 1953 and was referred to the Select Committee. It has not emerged from the Select Committee still.

6. *Doubts and difficulties.*

The movement, which was local in its origin, has now developed into a national movement and the message of the movement has been carried by its votaries in every State of India. However, like other movements of a moral character, this movement is not without its sceptics, Jeremias and doubting Thomases. The criticism has been voiced so far from three sources:

- (a) Shri R. K. Patil, ex-member of the Planning Commission,
- (b) the Maharashtra Peasants and Workers Party, and
- (c) the Communists.

All their objections and doubts are based essentially on the ideological differences in approach to the problem. It is proposed to consider them seriatim.

To begin with, Shri Patil has criticised the movement on the ground that it will give rise to the danger of uneconomic

holdings, which will be detrimental to a possible rise in agricultural production and will check the diversification of rural employment, which is, according to the Planning Commission, a pre-requisite to the rationalization of agriculture. In words of Shri Patil, "the future picture of our rural society should be one in which a decreasing number of people are engaged in food production and others are absorbed in cottage and small-scale industries". It is contended that the lands distributed are too small even for employing bullock power and other aids for development of land. It cannot find sufficient capital and cannot repay loans made on it. The owners will consequently again lapse into indebtedness and lose their lands to their creditors. In the ultimate analysis, the standard of cultivation will remain poor and undeveloped, and the production will decrease. In effect, he wants to reorganise agriculture as a branch of modern commerce. Vinobaji has answered this criticism.* He states that Shri Patil has failed to grasp the basic conception underlying the movement. It is true that the land is to be given to small cultivators, who are landless and, who have to work for others, the labour again being not always available. It is essentially a movement for supplying some means of maintenance to this class of agriculturists. In the case of small holdings, Japan and China has pointed the way that by intensive methods of cultivation, production could be increased from small holdings.† So, the uneconomic nature of small holdings on the ground of area alone does not stand proved. Like other undeveloped countries, India is mainly a nation of small holdings and the agricultural economy is to be based with reference to the man power, availability of land, means of cultivation, capital, etc. Vinobaji has expressed the fundamental difference between his and Patil's views as under:—

"I wish that a day must come when every man whatever his station and office, the master and the servant, the teacher and the pupil, the member of the Planning Commission and his peon, the Minister and the officer, will work for an hour or two on agriculture and help raise the production of the country. I hold that such a loyal dedication to labour will contri-

* The Harijan dated 31st May 1952 and 14th June 1952.

† Farms at Kora and Kosaba in the Bombay State illustrate the point.

bute to the welfare of the country and the removal of inequality." This observation is sufficient to show the ideological difference in the approach of Shri Patil and Vinobaji. In this connection, it would seem that Vinobaji's stand is correct in that in India, the problem of the agricultural or landless labour has not been tackled in the past. After studying the result of the agrarian movement in China, the Planning Commission has dwelt upon the problem in the Five-year Plan and recognised the value of the contribution of this movement.* Vinobaji's movement is aimed at solving the problem with all the limitations of land, capital and human factor. This fact should not be forgotten in evaluating the movement or assessing its results.†

The institutional opposition was voiced in October 1952 by the Maharashtra Committee of the Peasants and Workers Party. It passed a resolution stating that the land problem of India would not be solved by the movement; because

- (a) it was calculated to divert the peasants from organizing themselves against the feudal landlords;
- (b) the peasants would be dragooned by the movement under the religious illusion of sacrifice and donations, and
- (c) it would result in disruption of the peasant movement against exploitation.

To these charges, Vinobaji has given a very fitting reply. He has urged that he has never claimed to solve the entire land problem by this movement. His aim is to solve the immediate issue of the landless labourers by granting them land for maintenance. He has never asked the peasants to desist from trying to secure their demands. He has condemned the present land system and tried to solve the land problem peacefully. It has put a few grains of courage in the drooping hearts of these labourers and has paved the way for the non-violent land army.‡ The resolution opposes the movement for the sake of opposition and shows the Party's bankruptcy of thought and is a poor cloak for its inactivity. "Those who talk of peasant

* Five Year Plan, p. 183.

† See also Patil-Mashruwala correspondence in the Harijan of 11-10-1952 and 18-10-1952.

‡ The Navshakti (मराठी) dated 13-11-1952.

movement will find it irksome; for the Bhoodan Yagna is essentially a call to action.”*

Lastly, the reasons for the opposition from the communist party are quite obvious. It originated in the communist-ridden areas of Hyderabad and although it is not said in so many words, its technique is such as to take off the wind out of the sails of the communist movement. The criticism found expression in the Dange-Bhave correspondence in the matter.†

Shri Dange asserted that the peasants must be freed from the feudal burdens, if our food problem, in fact, any of our problems, is to be solved. And when peasants losing patience with poverty and starvation decided to take the land and refused to be ruined by landlords and sabukars, all the violence of the State descended upon them. To this, Vinobaji's answer was that he agreed with his thesis for abolition of the feudal burdens, but affirmed that violence was not necessary to achieve the objective. It is already stated above that the communist members of the Orissa Legislature opposed the Orissa Bhoodan Yagna Bill in April 1953.

There are other charges levelled against the movement. The idea is impracticable in that it runs counter to the acquisitive motive inherent in men and women of the feudal or capitalist society in which we live and that its fulfilment will take a long time. It is computed that it has taken 9 months to collect 75,000 acres of land, it might take 500 years to reach the target of 5 crore acres!‡ In contrast and in indirect support of the communist view point, we are reminded of the land reforms of China implemented with unique swiftness. The Chinese Agrarian Reform Law was enacted on June 28, 1950 and its implementation was completed by 1952.§ The charges apparently seem irrefutable. The chief argument is based on the conception of an “economic man” (*homo economicus*) of the western economists, who would do everything for his self-interest. But the fact of the matter is that the movement is meant to relax the acquisitive motive by donation of the land

* The Times of India of -11-1952.

† The Harijan of 18th August 1951.

‡ Dr. Karuna Mukerji: *Land Reforms*, p. 141.

§ People's China, October 1, 1951, article by Madam Sen-Yat-Sen, Vice-Chairman of the Central People's Government.

for the needy and the response has been unexpectedly encouraging. It should be borne in mind that all actions of man are not governed by the profit and loss philosophy, which, in common parlance, is known as economic considerations. Apart from the material and mundane considerations, man's actions are guided by moral and spiritual values, which are not easy to explain. So, the argument does not serve to show the futility of the movement.

The second argument about the probable period to reach the target of 5 crore acres is equally fallacious. The calculation of the period based on the rule of three is obviously misleading. To expose the fallacy, it is necessary to point out the moral of Mahatma Gandhiji's Salt Satyagrah March from the Sabarmati Ashram to Dandi (district Surat) in 1930. About the ultimate results, even the Congressmen had their misgivings and misapprehensions, and the opposition groups had, of course, jeers and jitters. But it is now a matter of history that the Dandi March fired the imagination of the people and set the whole country ablaze with satyagraha all round. In the circumstances, if the Pradesh Committees blaze the trail of Vinobaji, with his earnestness and sincerity, the results would be quick and confound the prophets of doom and disappointment. It is for this reason that Pandit Nehru has remarked that "this movement may be beyond the understanding of the economic pandits but it reaches the minds and hearts of the people".*

It is urged that the movement will perpetuate fragmentation of holdings. To this, Shri S. N. Agarwal has replied that he is more worried about the fragmentation of hearts than the fragmentation of lands, which can be consolidated at a later stage.

It is also alleged that the movement gives a fresh lease of life to landlords. Vinobaji accepts the charge but affirms that he does not give a new life to the Zamindari.†

Lastly, it is urged that the movement generates a spirit of revolt by making them land-hungry. Vinobaji accepts the charge and says that he wants to stave off a violent revolution and bring about a non-violent one.†

* Shri S. N. Agarwal's article "Bhoodan and Land Reforms" in the *Harijan* dated 18-4-1953.

† The *Harijan* of 10th May 1952.

Despite the criticism from within, it should not be forgotten that the movement is watched with great interest by parties in and outside India. Interest of the Indian parties is reflected in the M.P.'s Committee formed recently for the movement. According to the M.Ps., the movement has ushered in a new chapter in the socio-economic reconstruction of India. With regard to the interest of the outside world, the comments of the "*Freedom*", an anarchist weekly of Great Britain are cited below:

"In Bhave's method, there is something revolutionary: for it touches the ethical matters that lie at the heart of social justice....this strange experiment touches the centre of India's revolutionary problem—the land."*

It must be clear by now that this movement does not aim at acquisition of lands by force (expropriation) or by compensation but by voluntary relinquishment. It is really a loot by love. And therein lies the greatness of the idea.

Progress of the movement.

Shri Bhave has concentrated his activities in Bihar and established Committees in other parts of India. As a result, the best results are achieved in Bihar. According to the statement issued by the Secretary of the All-India Sarva Sewa Samaj on 3-1-54, about 24 lakh acres have been received in donation. The State-wise land gifts are set forth below:—

					Acres.	
1. Bihar	...	...	...	...	13,00,000	
2. U.P.	...	...	...	...	5,00,000	
3. Rajasthan	...	...	...	...	2,25,000	
4. Bombay	...	...	...	...	32,043	
					(20,845	Gujarat
					9,564	Maharashtra)
5. Assam	...	...	...	...	1,349	
6. West Bengal	...	...	...	...	395	

In short, the highest land-gifts are from Bihar and the lowest in West Bengal.

Out of the land donations, about 40,000 acres have been distributed amongst the landless families numbering 7,000.

The above statistics show that the movement is gaining ground gradually, and are sufficient to confound the critics of the movement.

* Cited in The Harijan of 26th January 1952.

7. *Critique of the movement.*

As the movement is still in its infancy and as the 'great idea' is still in the formative stage, it is too early to assess its operation, progress and effects. Its concrete results in the shape of the actual utilization of the lands donated are still to be watched. It is therefore premature to offer any remarks on the working of the movement. For this, we should wait and watch its working for 3 or 4 years more. But it should serve a useful purpose to point out the pitfalls that lie ahead in such moral movements and to indicate the ways out of them.

To begin with, Vinobaji is the arch angel of the movement and the donations are made in his name and the Pradesh Committees are nominated by him even under the laws or rules enacted in the U.P., Orissa, Madhya Pradesh, etc. His tours create unprecedented enthusiasm in the villages but on his leaving the villages, the movement is likely to languish if it is not backed up by sustained efforts of local workers. Further, as the acceptance of donated lands, wells, money, etc., involves scrutiny of the right, title and interest in lands, the movement cannot be separated from the revenue administration of the villages. Furthermore, as in Hyderabad, certain types of uncultivated lands have been distributed 'rent free' for the first three years, the movement affects the land revenue of Government. As admitted by Vinobaji, the distribution is more important and vital for the success of the movement than the donations themselves. All these factors point to the urgent necessity of framing suitable laws for aiding the movement. So far, in 3 or 4 States (the U.P., M.P., M.B., Orissa, and Hyderabad) only, such laws have been enacted. It is high time that other States like Bombay* should take up the question and toe the line.

So far, Vinobaji has borne the brunt of the movement, even after the appointment of the Pradesh Committees in different States. Other Congressmen's help is neither sustained nor substantial. Time should come in a year or so when the movement should be decentralized† and the Pradesh Committees

* The Bombay State proposes to do this by rules to be framed under the Bombay Tenancy and Agricultural Lands Act, 1948.

† Recently, Shri Bhavé has announced his intention to leave Bhoodan in other hands and devote himself to the propagation of the Sarvodaya ideology.—The Times of India, dated 23-10-1953.

should function on their initiative without supervision and control from above. The village revenue administration has a great part to play in the movement. The Pradesh Committees should inspire the village officers by practice and precept. If they play their part well, many of the difficulties in donations and distribution can be easily overcome and the movement can get into stride in any village. If this machinery is not taken into confidence and harnessed in it, this movement primarily concerned with land and its utilization is not likely to make headway even with the best intentions of its originator.

Apart from the suitable laws and village revenue machinery, the quintessence of the movement is *Faith*. Generally, moral movements work upon Faith. It is, therefore, absolutely necessary for the workers to see that they do nothing in getting donations or distributing them which would impair the people's faith in the movement. In the dark atmosphere of a world engrossed in exploitation, self-aggrandisement, graft and nepotism, the idea of donating lands, instruments of agriculture, cash, etc., without any consideration or compensation is really a bright star to which our waggons should be hitched. The spirit of the idea should be understood and spread throughout India. It may be that during these initial two years, it may not have achieved much but we should not forget that its potentialities are much greater for revitalizing the rural India. The greatest advantage of the movement is that it creates the right climate for the introduction of far-reaching land reforms through peaceful and democratic measures. "Let the generations to come not say with regret that a Gandhian saint like Vinoba walked thousands of miles in his frail body on foot asking for land donations from village to village, but the Government of the day did not utilize the golden opportunity for enacting progressive land reforms with speed and determination."*

CHAPTER XVI

PREVENTION OF FRAGMENTATION AND CONSOLIDATION OF HOLDINGS

1. *Introduction.*

Fragmentation of holdings, which exists in different parts of India, was long ago recognised as an evil and an impediment to the agricultural progress of the country. But for various reasons to be dealt with later, it had not acquired the urgency and importance which it deserved in the rural regeneration of India. The impact of World War II dislocated the free international movements of goods and commodities with the result that India, which obtained large quantities of wheat and rice from abroad, was faced with a food deficit unprecedented in its history. This fact pointed to the urgent necessity of growing more food within the country by adopting suitable measures. Attention of various State Governments was therefore specifically drawn towards the evils inherent in the minute sub-division of holdings arising primarily out of the pressure of population and the operation of the laws of inheritance of the Hindus and Muslims. The smallness and scatteredness of the operating unit in agricultural production has been the biggest single factor which has impeded good cultivation and is responsible for the poor productivity of the Indian agriculture and the low income of the large majority of farmers. As a result, all the State Governments and the various Agrarian Reforms Committees appointed by them have uniformly recommended that the consolidation of the dwarfed and discrete holdings is the only remedy under the agricultural conditions obtaining in the country. Under the impact of the World War, the problem of consolidation which was no longer a live issue having been either shelved or buried long since, assumed serious importance owing to food shortage.* As a result, it has passed the stage of controversy whether measures for consolidation

* K. G. Ambegaokar (I.C.S.)'s lecture on "Consolidation of Agricultural Holdings" in the first Conference of the Indian Agricultural Economic Conference at Delhi (1940).

should be adopted or not and whether it should be voluntary or compulsory. Different State Governments have adopted or are considering adoption of suitable legislative measures to prevent fragmentation and to consolidate holdings into adequate blocks for profitable cultivation.

2. *Connotation of Sub-division and Fragmentation.*

Before we proceed to deal with the legislative attempts at consolidation of holdings, it is necessary to know the exact position of the sub-division of holdings in different States and the general circumstances under which that process has taken place. The term 'sub-division' requires to be clearly understood. It means the distribution of the land of a common ancestor amongst his successors in interest, usually in accordance with the laws of inheritance, but sometimes effected by voluntary transfers amongst the living by sale, gift or otherwise. The ever increasing pressure of population in the country is also one of the most important causes of sub-infeudation. But fragmentation is quite different from the sub-division and refers to the manner in which the land held by an individual or undivided family is scattered throughout the village area in plots separated by the lands in the possession of others.

The Agricultural Commission (1927-28) divided the problem of fragmentation into four sub-categories as follows:—

- (1) the sub-division of holdings of right-holders;
- (2) the sub-division of holdings of cultivators, who may or may not be right-holders of the whole or part of the land they cultivate;
- (3) the fragmentation of holdings of right-holders; and
- (4) the fragmentation of holdings of cultivators.

As regards (1), the causes mainly responsible for the process are the laws of inheritance of the Hindus and Muslims which generally enjoin succession to immoveable property by all the heirs usually in equal shares. This process is accentuated by acquisition of petty holdings by money-lenders. The pressure of rapidly increasing population of India on the available cultivable area is a contributory cause in the process of sub-division of right-holders. This tendency has been borne out by the socio-economic surveys carried out during the last 40

years. In his non-official "Social and Economic Survey of a Konkan Village", Shri V. G. Ranade records that of the culturable area in the village of 192 acres, 24 non-agriculturists owned 110 acres or an average of 4.71 acres; while 28 agriculturists owned 78 acres or an average of 2.85 acres. Twelve out of the 52 holdings were below one acre. All these acquisitions were by shaukars from the old ryots on account of their indebtedness. Mr. Keatinge has expressed the opinion that "the agricultural holdings of the Bombay Presidency have to a large extent been reduced to a condition in which effective cultivation is impossible". Dr. Mann had come to a similar conclusion in his detailed inquiries of the villages of Pimpila Soudagar and Jategaon Budruk.*

3. *Statistical data.*

As regards (2), it may be pointed out that the sub-division of cultivation differs somewhat from that of the right-holders' holdings; because many right-holders do not cultivate at all and many more cultivate only part of their land, while there is an undetermined number of landless cultivators in every State. The result is that the sub-division is more pronounced amongst the actual cultivators. The statistics about the number of cultivated acres per farmer in different States are very revealing and are, therefore, cited below:—

Bombay (1936-37)†

Classification of holdings.	Percentages of	
	Holders.	Area in acres.
Upto 5 acres	49.0	9.5
Between 5 and 15 acres	29.0	22.8
" 15 and 25 acres	11.0	17.7
" 25 and 100 acres	10.0	34.4
Above 100 acres	1.0	15.6

Investigations made in the Karnatak districts of Bombay have shown that the average size of the holdings have decreased from 15.6 acres in 1916-17 to 12.6 acres in 1942-43 i.e. 27.2%. During this period, the holdings below 5 acres in size tended to

* Land and Labour in a Deccan Village, University of Bombay Economic Series.

† Nanavati and Anjaria: Indian Rural Problem, p. 45.

increase in number and this factor undermined the structure of the rural economy.*

According to the Season and Crop Report of Mysore for 1944-45, the percentages are as under:—

Classification of holdings.	Percentages of	
	Holders.	Area.
Upto 1 acre	23.1	2.9
Between 1 to 5 acres	42.8	21.1
„ 5 acres to 10 acres	20.8	22.4
„ 10 acres to 50 acres	12.1	37.8
Above 50 acres	1.2	15.8

The Punjab Board of Enquiry found in 1939 the percentages of the owners and the percentages of lands held according to the size of the holding as follows:—

Size of holding	Owners	Percentage of area
Upto 1 acre	20.2	0.8
1 to 3 acres	28.6	5.2
3 to 5 acres	14.9	6.2
5 to 10 acres	16.9	13.1
10 to 15 acres	7.3	9.1
15 to 20 acres	3.6	7.2
20 to 25 acres	2.2	5.6
25 to 50 acres	3.9	14.8
50 acres and above	2.4	38.0

The number of cultivated acres per farmer in the several States was as follows in 1931:—

Bombay	16.8
Madhya Pradesh (C.P.)	12.03
Punjab	8.8
Madras	5.99
Bengal	3.97
Assam	3.4
U.P.	3.3
Bihar and Orissa	2.96

The Mysore Committee of 1931 found that the percentages of holdings of different sizes were as follows:—

Less than 1 acre . . .	20.9%
Between 1 and 5 acres . . .	39.8%
Between 5 and 10 acres . . .	18.8%
Between 10 and 25 acres . . .	14.9%
Between 25 and 50 acres . . .	4.1%
Above 50 acres	1.5%

* Umarji, B. R.: Farms and Holdings in Bombay Karnatak (1949)—unpublished.

In Bombay, recent socio-economic survey in the village Bhuvel, taluka Bhadrán (District Kaira) in 1946-47 has revealed* the distribution of land amongst khatedars according to the size of the holdings as follows:—

	Number of khatedars	Percentage
Less than 5 bighas	3,009	42.0
Between 5 and 25 bighas	3,180	44.3
Between 25 and 100 bighas	910	12.7
Between 100 and 250 bighas	68	1.0
Between 250 and 500 bighas	5	—
Above 500 bighas	3	—

The percentages of the khatedars holding lands less than 6 bighas are practically a little less than half the total number of khatedars in the village.

In 1948, a sample survey of the agricultural holdings was conducted in the Bombay State by the Bureau of Economics and Statistics. It covered 334 villages out of the total of 22,700 of the pre-merger Bombay State. It elicited information from 60,892 cultivators, who possessed either as owners or tenants 8,07,246 acres of cultivable land. The survey showed that the average size of the holding region-wise was as follows:—

	Acres				
Gujarat	9.08
Deccan	15.06
Karnatak	15.45
Konkan	4.23
Bombay State	13.26

The low average size of holding in the Konkan is attributable to the fact that the rice-growing tracts give relatively a higher outturn per acre. As regards the Deccan and Karnatak, the relatively high average size may be due to the fact that large tracts in those divisions are liable to famine. It need not be emphasized that the average size of holdings does not correctly portray the actual conditions of the holdings, because the distribution of holdings does not follow the normal distribution. A detailed study of the distribution shows that in Gujarat, the small holders (i.e. those having holdings of less than 5 acres) form 53% of the total number of cultivators and hold 12.5% of the total area. Similar figures for the Deccan are 36% and 49%, while for the Karnatak, the figures are 32% and

* Vimal Shah and Sarla Shah : Bhuvel, p. 7.

5.2% and for the Konkan (Thana, Kolaba, Ratnagiri and North Kanara) 80% and 25%. On the whole, the distribution for all the divisions is found to be considerably skew. The model size for the three divisions of Gujarat, Deccan and Konkan is the same, viz. between 0-1 acre.

The study of the survey has revealed that in the Bombay State, very few cultivators possess large holdings, but they possess amongst themselves a very generous slice of the total acreage of the State. On the other hand, many cultivators possess small holdings which together account for only a very small portion of the total acreage.*

From the foregoing statistics of the sub-division of holdings in different States of India, the observations made by the Famine Inquiry Commission (1945) still hold good: "Under all the land systems, the small holdings are the rule, large holdings being relatively few in number and the general tendency is for the number of small holdings to increase."† The immediate cause of the tendency of the progressive diminution in the size of the holdings is sub-division. It is generally agreed that this tendency should be immediately arrested. According to the Commission, the primary cause of sub-division is the pressure of population on land and the basic measures recommended for checking sub-division are the bringing of additional land under cultivation and secondly an increase in industrial employment.

The distribution of holdings according to size in different States tend to show that a very large percentage of holdings is below 5 acres:—(See table on the opposite page.)

Further, the result of the Agricultural Labour Enquiry conducted recently in certain villages in the State of Madras, Bihar and West Bengal is that the largest percentage of holdings is below 2 acres.‡

(3) The fragmentation amongst right-holders' holdings is mainly due not to the laws of inheritance but to the customary method by which the law as to division of property amongst the

* The Bulletin of the Bureau of Economics and Statistics of the Government of Bombay, January 1949.

† Final Report of the Famine Inquiry Commission (1945), p. 258.

‡ Agricultural Legislation in India Vol. II—Consolidation of Holdings (1950), p. ii.

	Mad.*	Pun.*	U.P.*	Beng.*	Bom.	Mys.†	Ass.‡	Orss.§
Average size of holdings (acres) ...	45	10	N.A.	4.4	13.3	6.2	4.8	4.9
Percentage of number of holdings under 5 acres to the total ...	82	63.7	81.2	71.3	41.9	65.9	66.4	79.2
Percentage of number of holdings under 10 acres ...	89	80	93.9	88.3	60.9	86.7	87.4	89.5
Percentage of number of holdings under 15 acres ...	N.A.	87.9	N.A.	N.A.	72.5	N.A.	N.A.	94.3
Percentage of number of holdings under 25								

heirs is carried into effect. It is one thing to alter a method of partition and quite another to alter the law on which the partition is based. The custom in dividing property amongst heirs is to give to each heir a proportional share of each item of the inherited property and not a share of the whole equivalent to his portion. The continuous partition of each field results in fragmentation as the holdings inherited are scattered throughout the village area. "Fragmentation is accentuated by the expansion of cultivation irregularly over the waste, by the extinction of families in default of direct heirs and the division of their property amongst a large number of distant relatives. It has also been the result of the break-up of the joint family system and its custom of cultivation in common."¶ It is noticed that where the soil is of uniform quality or where differences in quality are not great, fragmentation is an evil of the first magnitude. About this problem in Bombay, Mr. Keatinge long ago said that it "is an unmitigated evil for which no advantage can be claimed." Dr. Mann in Pimpalga Soudagar found frag-

* Report of the Rural Banking Enquiry Committee, Para. 30.

† Report of the Land Revision Committee (1950).

‡ A Survey of Rural Economic Conditions in Darrang (1950).

§ Report of the Land Revenue and Land Tenure Committee 1949, Appx. IX.

¶ Agrl. Commission's Report (1928), p. 134.

mentation "to be a disadvantage without any redeeming quality." The disadvantages of fragmentation have been very aptly summarized by the Agricultural Commission as under:—

"Even where cultivation is possible, fragmentation involves endless waste of time, money and effort; it restrains the cultivators from attempting improvements; it enforces uniformity of cropping; and especially restricts the growing of fodder crops in the period when cattle are usually sent out to graze on the fields."*

(4) Lastly, fragmentation of cultivation is a far worse evil than fragmentation of the land of permanent right-holders. It is found to be much more extensive and carried to greater extremes. This happens when a small right-holder attempts to secure any addition of a small piece of land wherever it may be situated. Besides, the tenants, who are unable to rent all they wish from single owners, search the village for scattered lands on lease. Dr. Mann in Pimpalgaon Soudgar found that 62% of the cultivators' plots were below one acre. In the survey of the Bhuvil village in the Bhadran Mahal of the ex-Baroda State, it is found that there are 133 families cultivating 1,334 bighas of land. Thus, the average area cultivated by each cultivator's family is 10 bighas, while per capita cultivated land is $1\frac{1}{4}$ bighas. This area is split up into 513 plots, the average area per plot being $2\frac{1}{2}$ bighas. The smallest plot is half a bigha. It is noticed that the land which is under tobacco cultivation for some years is more fragmented than the rest, the plot being from $\frac{1}{2}$ bigha to 2 bighas. But in the case of other crops, plots varying in size from 8 to 16 bighas are commonly found. This shows that kind of crop—cash or non-cash—raised in land also contributes to fragmentation†.

The sample survey carried out in 1948 by the Bombay Bureau of Economics and Statistics has shown that average number of fragments per cultivator is 3.83, while the average size of each fragment is 3.46 acres in the Bombay State. The division-wise distribution of fragments is as under:—

* Report of the Agrl. Commission, p. 135.

† Socio-economic Survey of Bhuvil, pp. 37-38.

				Average size of fragments per holding.	Average size of fragments.
Gujarat	...	...	...	4.08	2.23
Deccan	...	...	...	4.22	3.57
Karnatak	...	...	...	2.48	6.24
Konkan	...	...	...	5.54	0.76
Bombay State	...	...	...	3.83	3.46

It may be noted that in rice-tracts, the method of cultivation itself leads to greater fragmentation. It is also noticed that Sholapur ranks first as regards the average size of holding, Bijapur, Ahmednagar, West Khandesh and Poona following in that order. This means that Sholapur has the largest average size of holding in the State. The average number of fragments per holding is very large in Ratnagiri and Poona. The districts with the least number of fragments are Bijapur and Belgaum.*

Apart from the above causes, the fragmentation arises from physical conditions created by human activity not connected with agriculture, e.g., fragmentation due to the construction of roads, railways, canals, reservoirs, and buildings or to the establishment of forest or game reserves or national parks. Further, there are types of fragmentation which can be called agriculturally rational or irrational. The former type can be justified in terms of agricultural convenience or efficiency: whereas the latter cannot be so justified and therefore is an evil.

But it should be clearly understood that the phenomenon of fragmentation is not associated with any particular form of land tenure or ownership. It has occurred both in countries where the agricultural land has been held in large estates and in countries of small family holdings. It is found in areas of tenant farming and in those where the proprietor works his own land. It may equally be associated with a serf population, with well established peasant farming or with the growth of independent small holders†.

* Bulletin of the Bureau of Economics and Statistics, Government of Bombay, January 1949.

† FAO Agrl. Studies : The Consolidation of Fragmented Agrl. Holdings (1960), p. 11.

4. *Prevention of Fragmentation.*

It is of special interest to know how various State Governments have tackled the problem of prevention of fragments. As the majority of the States in India have followed the Bombay Prevention of Fragmentation and Consolidation of Holdings Act, 1947, it would be proper that the relevant provisions of the said Act are dwelt upon in sufficient detail.

Chapter II of the Act deals with this aspect. In the process of preventing fragments, the State Government after proper inquiry and in consultation with the District Advisory Committees appointed by it, provisionally settles for any class of land in any local area the minimum area that can be profitably cultivated as a separate plot. Then, those provisionally settled areas are published in the Official Gazette and objections invited from the persons concerned. After considering the objections, if any, received within 3 months from the date of publication of the provisionally settled minimum areas, and making such further inquiry, Government determines the 'standard area' for each class of land in a local area. The Bombay Government has determined the standard areas as under:—

- (1) for dry crop land, 1 to 4 acres,
- (2) for rice land, one guntha to 1 acre,
- (3) for bagayat land, 5 gunthas to one acre; and
- (4) for warkas land, 2 acres to 6 acres.

Such standard area can be revised in the same manner as that prescribed for fixing it originally. All plots of land less in area than the standard area are treated as 'fragments'. These fragments are entered in the Record of Rights and other village records and notices of such entries are given to all persons and interests in the lands concerned. After the issue of such notices, the transfer of the fragment is prohibited unless such a transfer merged it in a contiguous survey number or a recognised subdivision thereof. Further, such a fragment cannot be leased to any person other than person cultivating any land which is contiguous to the fragment. The Act provides specifically that no land shall be transferred or partitioned so as to create a fragment and that transfer or partition of any land contrary to the provisions of the Act, is deemed void and the owner of such land

is made liable to pay fine not exceeding Rs. 250. But the owner of such a fragment is permitted to transfer it to Government, on payment of compensation payable under the provisions of the Land Acquisition Act, 1894. Even in executing decrees of civil courts, no partition or separation of a share is to be made so as to create a fragment. The Act even prohibits Government or a local body from acquiring or selling land in a manner which would leave a fragment.

From the brief review of the provisions of the Act, it may be crystal clear that the 'standard area' is not the same thing as the 'plough unit' or 'economic unit of cultivation'. The former deals with the size of plots of holdings; whereas the latter takes into account the size of the holdings as a whole. The concept of the 'standard area' is not intended to ensure sufficient profits to farmers for the maintenance of themselves and their families by cultivation of a single standard area. But what is hoped by Government is that the cultivation of several standard areas, each of which is paying its costs, may ultimately result in a decent income for farmers. This apart, these provisions effectively prohibit sub-division of agricultural land beyond the limit of standard area fixed by Government. It is true that they do not change directly the laws of inheritance but it does restrict the application of the traditional laws of inheritance without at the same time summarily over-throwing the present landholders from their present position.*

5. *Consolidation of Holdings.*

In order to remedy the state of affairs and prevent further deterioration in the agricultural economy of the country, the common measures adopted in India and other countries are towards consolidation of the small and scattered holdings in compact blocks. The schemes of consolidation have taken three forms:—

- (a) consolidation of holdings,
- (b) consolidation of plots,
- (c) consolidation of cultivation.

* Umarji B. R.: *Farms and Holdings in Bombay Karnatak* (1949)—unpublished.

The first two types of schemes aim at re-distribution of lands on the basis of the existing conditions of ownership of land and the third is based on the existing conditions of cultivation. Generally, the first two schemes are adopted, because the ideal is to make the holdings compact, as far as practicable. The consolidation of cultivation is an ideal to be reached in order that the peasant proprietorship might come into existence with the ultimate object of creating cooperative farming. But the consolidation of cultivation involves that the units of cultivation in a locality shall be so adjusted as to conform to a prescribed acreage, and this should be achieved without interference with the proprietary rights in land. It is expected that such a consolidation would provide farmers with units of cultivation suitable for profitable farming. But in this process of consolidation, there lurks a serious danger particularly in the heavily populated areas, where it may throw out several cultivators from the agricultural employment. It also postulates mutual cooperation between owners and cultivators, which may not be forthcoming in the degree needed for consolidation.

Like other countries,* attempts at consolidation were made in India in the past by Government and private agencies. It is reported that the *Malguzars* (landlords) of the *Madhya Pradesh* did some consolidation work in their home farm areas by exchange and sometimes by high-handed methods with the result that it was suspected by the tenants as a device to better their own position at their expense.† Some indirect attempts were made during the survey and settlement operations by recognising a survey number of a particular size. However, the best results by voluntary methods were achieved through the cooperative societies in the *Punjab*. The success of the movement may be attributed to the homogeneity of the soil and the simple system of land tenure, but more particularly to the realization by all concerned that fragmentation had reached very uneconomical limits. The consolidation was tried through the Cooperative and Revenue Departments. The consolidation resulted in (a) an increase in an area under irrigation and cultivation; (b)

* For consolidation in Europe, see the *Consolidation of Farms in Six Countries of Western Europe*, (Oxford University Press).

† B. A. Bambawale, I.C.S., *Manual of Instructions on Consolidation of Holdings in C. P.* (1946), p. 1.

simplification in the methods of maintenance of village records and (c) increase in land revenue.

In the U.P., the consolidation was tried for a number of years but the progress was very slow. This was attributable to heterogeneity of the soil, complexity of tenures, want of trained staff and paucity of funds. It is on record that consolidation by compulsion and panchayat was tried and given up. In 1947, Government ordered the stay of all consolidation proceedings pending reorganization of the system of land revenue.

The Baroda State now merged in the Bombay State was the pioneer in adopting measures for consolidation. It passed in 1920 a law called the Consolidation of Agricultural Holdings Act. The Act was permissive and, therefore, the results achieved were not satisfactory.

In Madras, an attempt was made in 1936 to consolidate holdings through the cooperative movement, and was abandoned, as it failed. So far, it has not undertaken any legislation, because sub-division is not a serious problem there and particularly because "so long as sub-division has to go on, any attempt at consolidation of holdings was bound to fail." The Famine Inquiry Commission has taken the view that this consideration has been over-estimated by that Government. There is, therefore, an urgent need for legislation for consolidating holdings in Madras also.

In Bombay, an official Bill was brought before the Legislative Council in 1927, but owing to strong opposition from the land-owning classes, it had to be withdrawn. If that Bill had been passed into law then, it would have been very easy to consolidate holdings, because the land values and the prices of agricultural produce were then at a very low level in view of the worldwide slump, and, by now, the work of consolidation would have been completed. But that was not to be. It was left to the popular Ministry in 1947 to enact the Bombay Prevention of Fragmentation and Consolidation of Holdings Act, which is in force at present.

In the Madhya Pradesh, the consolidation work was initiated by legislation in 1928, but it was first applied to the Chhatisgarh Division because the evil of small and scattered

holdings was far more serious there. It was attributable to the obsolete practice of lakhabata, which was a device to equalize the holdings of land by a periodical re-distribution of the fields in the village so as to ensure that each cultivator in turn got his share of different kinds of land. It was subsequently extended to other areas by notification in the official Gazette.

In Rajasthan, there was no specific law enacted for prevention of sub-division and consolidation of holdings. But section 29 of the Jaipur Tenancy Act which is applicable to the State grants (Land Tenures) provides that no holding shall be divided so as to constitute holdings of less than 15 bighas of unirrigated or five bighas of irrigated land, one bigha of irrigated land being equal to three bighas of dry land. Besides, the Jaipur laws also facilitate the consolidation of scattered holdings by permitting mutual exchange of land on the initiative of tenants. Recently, the State has undertaken special legislation.

6. *Legislation.*

All attempts in this regard suggested that for consolidation of holdings, legislation with an element of compulsion was essential, and some States have passed special laws in the matter. It is, therefore, proposed to review very briefly the laws passed in different States in India. The Acts so far passed or proposed to be enacted are as follows:—

- (1) The C.P. Consolidation of Holdings Act, 1928.
- (2) The Punjab Consolidation of Holdings Act, 1936.
- (3) (a) The U.P. Consolidation of Holdings Act, 1939.
(b) The U.P. Consolidation of Holdings Act, 1953.
- (4) The Jammu & Kashmir Consolidation of Holdings Act, 1996 Samvat (1940 A.D.).
- (5) The Bombay Prevention of Fragmentation and Consolidation of Holdings Act, 1947, and its amendment of 1953.
- (6) The East Punjab (Consolidation and Prevention of Fragmentation) Act, 1948.

- (7) The Patiala and East Punjab States Union Holdings (Consolidation and Prevention of Fragmentation) Act, 2007 Samvat (1951 A.D.).
- (8) The Saurashtra Prevention of Fragmentation and Consolidation of Holdings Act, 1951.

The Land Revenue Reforms Committees appointed by different States like Orissa, Mysore, Hyderabad, Cochin, etc., have recommended the enactment of laws as early as practicable. About the legislation already undertaken, in the nature of things, the Punjab Act was taken as a model, because the consolidation movement started there. Owing to the existence of similar conditions in Jammu and Kashmir, the Act enacted has adopted as its model the Punjab Act of 1936. But it redounds to the credit of the Bombay State that its Prevention of Fragmentation and Consolidation of Holdings Act, 1947 has been taken as a model by the majority of the States in India on the recommendations of the special Land Reforms Committees appointed by those States.* Even the Congress Reforms Committee recommended adoption of the provisions of the Bombay Act with suitable modifications to meet local variations.† As a result, the East Punjab (Consolidation and Prevention of Fragmentation) Act, 1948, the Pepsu Holdings (Consolidation and Prevention of Fragmentation) Act, 2007, Samvat, the Saurashtra Consolidation of the Holdings Act of 1951 have been based on the Bombay model. These facts are sufficient to show the importance and the comprehensive character of the Bombay Act in the context of the all-India legislation in the matter of the consolidation of holdings. As in the case of the tenancy legislation, Bombay has also given a lead to other States of India in matter of consolidation of holdings.

The present legislation may be broadly divided into two categories according as the methods adopted are permissive or compulsory. In the case of the former, the State Governments rely mostly on the initiative of the local persons called owners,

* (1) Report of Land Revenue and Land Tenure Committee of Orissa, (1949), p. 32.

(2) Report of the Land Revenue Revision Committee of Mysore (1950), p. 117.

(3) Report of the Hyderabad Land Revenue Reforms Committee, (1949), p. 206.

(4) Report of the Cochin Agrarian Problems Committee, 1949.

† Report of the Congress Agrarian Reforms Committee (1950), p. 167.

permanent holders, cultivators, etc.; whereas in the case of the latter, the initiative comes from the State Government. Although the former types of legislation are permissive, they do contain some element of compulsion to overcome the obstinacy or recalcitrancy of some cultivators when the generality of the cultivators agree to consolidation. But the emphasis is on the willingness of the local people concerned. In this category fall the earlier Acts like the Baroda Act, the Consolidation of Holdings Act passed in the Madhya Pradesh and Uttar Pradesh in 1928 and 1939, respectively. As regards the compulsory legislation, it may be pointed out that they are comparatively recent and that provision for compulsion has been made on the basis of the experience gained in implementation of the earlier Acts in the Punjab and the C.P. (Madhya Pradesh). These Acts are also comprehensive in character but not as comprehensive as a radical agricultural economist would expect. In this category fall the Bombay Prevention of Fragmentation and Consolidation of Holdings Act, 1947, the East Punjab Holdings (Consolidation and Prevention of Fragmentation) Act, 1948, and similar Acts of Hyderabad* and Saurashtra.

Now, it is proposed to discuss the principal features of the present legislation from the following points of view:—

- (1) Initiative for consolidation.
- (2) Procedure for consolidation.

(1) *Initiative.*

To begin with, under section 6 of the C.P. Act of 1928, any two or more permanent holders in a village, mahal or patti holding together not less than the minimum area of land prescribed under the Rules (generally 100 acres of land) have to apply to the Consolidation Officer for the consolidation of holdings. And according to section 5 thereof, there are over a dozen different persons who are covered by the term 'permanent holder'. It is presumed that after the passing of the Zamin-dari (Malguzari) Abolition Act, the number of persons holding various interests might have been considerably reduced. But that does not controvert the fact that owing to different landed interests, it would be difficult to obtain the consent of a sufficient number of permanent holders to set the ball rolling. It

* In Hyderabad, provision for consolidation of holdings is made by the recent amendment of the Tenancy Legislation.

was because of this difficulty that the Act was applied to the Chhattisgarh Division in the first instance and every subsequent extension was subject to the issue of a notification which was to be laid before the Legislative Council.

In the Punjab, application for consolidation of holdings is to be made by any two or more landowners in an estate or a sub-division of an estate holding together not less than the minimum area of land prescribed by rules under section 26 of the Punjab Consolidation of Holdings Act, 1936 (section 3). Such an application is valid if the Consolidation Officer is satisfied that not less than two-thirds of the land owners holding not less than three-fourths of the cultivated area agree to consolidation.

As regards Jammu and Kashmir, the State has naturally adopted the provisions of the above Punjab Act. In section 3 of the Jammu and Kashmir Consolidation of Holdings Act, 1940, the initiative is left with the people. Delhi follows the Punjab Act.

In the U.P. also, the initiative is to come from the people. According to section 3 of the U.P. Consolidation of Holdings Act, 1939, a proprietor of a village or mahal or the lambardar or the cultivators of more than one-third of the cultivated area of a village have to apply to the Consolidation Officer for consolidation of their holdings.

In the matter of initiative, Bombay blazes a new trail in consolidation. Section 15 of the Bombay Prevention of Fragmentation and Consolidation of Holdings Act, 1947, provides that Government may of its own accord declare by a notification in the Official Gazette its intention to make a scheme for consolidation of holdings. This provision is in accordance with the recommendation of the Agricultural Commission that the initiative should not be left to the spontaneous action of the right holders.*

The Pepsu Act follows the Bombay model and empowers Government to take initiative in the matter of consolidation [vide section 14(1) of the Pepsu (Consolidation and Prevention of Fragmentation) Act].

* Report of the Royal Commission on Agriculture (1928), p. 144.

As the Hyderabad, Saurashtra and similar legislation in Mysore and Orissa, whether enacted or proposed, follow the Bombay pattern of provisions, there seems no need to repeat them here.

(2) *Procedure.*

The main policy of any government embarking upon the consolidation of holdings must be to achieve progress by education, and compulsion should be a supplement to education and not a substitute for it. The schemes should be free from ambiguity and should have the advantages of directness and simplicity. "We recognise that the introduction of element of compulsion may be inevitable; but compulsion should not be regarded as dispensing with the need for the most scrupulous attention to the wishes of the people."* This is more so in this democratic age. The Agricultural Commission has observed that "the progress may be slower where tenures may be more complex or qualities of soil are varied, but difficulties should not be allowed to become an excuse for inactivity.... Consolidation is not to be made a ground for enhancement of land revenue at the next settlement."† This caveat seems to have been entered by the Commission in order that the cultivators or the owners of land, who may consent to consolidation, may not be scared away from the schemes by the future prospect of enhancement of land revenue consequent upon the increase in yield and value of the lands so consolidated.

In essence, the procedure for consolidation of holdings after a scheme has been sanctioned and initiated is practically the same in all the States. Since the Bombay Act has been adopted as a model in several States of India, it would be useful to briefly review the method of operation provided in the Bombay Prevention of Fragmentation and Consolidation of Holdings Act, 1947. Chapter III of the Act lays down the detailed procedure for consolidation of the holdings and is summarized below:—

As regards the consolidation, the State Government notifies in the Official Gazette its intention to make a scheme for the consolidation of holdings in a village or villages or part thereof.

* Report of the Royal Commission on Agriculture, p. 141.

† Report of the Royal Commission on Agriculture, p. 142.

Thereupon, Government appoints a Consolidation Officer who proceeds to prepare a scheme for the purpose. On the basis of the provisions of the Land Acquisition Act, 1894, the scheme provides for payment of compensation to any owner, who is allotted a holding of less market value than that of his original holding and for recovery of compensation from any owner who is allotted a holding of greater market value.

In preparing such a scheme, the Consolidation Officer makes a declaration where necessary that the rights of the public and individuals in or over a particular road, lane, or path, which is required for amalgamating the holdings, shall be extinguished or may be transferred to a new road, street, lane or path in the scheme. Such a declaration has to be published at the village in the prescribed manner and objections thereto are invited within 30 days by the Consolidation Officer. Claims to compensation on account of extinction or diminution of any right of public high-way over such road, street, lane or path are not to be entertained. Thereafter, the Consolidation Officer considers the objections put forth, amends the scheme as he thinks proper, republishes it as amended, calls for fresh objection applications and then submits the same with applications to the Settlement Commissioner together with his observations. The Settlement Commissioner's decision about the amount of compensation and the persons to whom it is payable is final, subject to the orders of Government.

After approval by the latter, the scheme is published in the Official Gazette. When the scheme-papers are sent to Government, the State Government either confirms the scheme with or without modifications or refuses to confirm it. But if the scheme has been modified by the Settlement Commissioner, the State Government has to publish it and has to take into consideration objections, if any, received within 30 days of its publication.

After the scheme is confirmed, it is published in the Official Gazette and the village or villages concerned. Thereafter, the actual process of consolidation begins. If the owners concerned agree to enter into possession of the holdings allotted to them under the scheme, the Consolidation Officer allows them to enter into possession on any date agreed upon by them. If the owners

affected do not agree, they are entitled to possession of the holdings allotted to them from the beginning of the next agricultural year. The Consolidation Officer has to put them in possession of the allotted lands even by evicting any person from those lands. But before entering upon possession, the person has to deposit, within 15 days of the beginning of the agricultural year, the amount of compensation payable by him under the scheme. If he fails to do so within a prescribed period, the land may be allotted to another person who pays the value thereof. The consolidation scheme comes into force from the time the persons concerned enter into possession of the allotted lands. A certificate of transfer of lands is granted by the Consolidation Officer. A very important provision has been made to grant tagavi loans to the owners for carrying out the purposes of the Act.

Every owner to whom a holding is allotted is given the same rights in such holding, which he had in his original holding and any encumbrances like a lease, mortgage, debt, etc., are transferred to the new holding. If the new holding is of less value than the original one, he is entitled to compensation from the owner to whom his holding of higher market value has been transferred. Such allotted holdings are not to be transferred without the permission of the Consolidation Officer or sub-divided without the permission of Government. Thus, restrictions are placed on future partitions, exchanges or transfers. Similar provisions are found in the Acts of the Punjab, U.P., and Berar. The scheme is fully implemented only after the possession of holdings has been transferred to the allottees and the question of compensation is settled. The civil courts are barred from entertaining appeals in the matter of consolidation schemes.

In the Acts of Madhya Pradesh, Jammu and Kashmir, Pepsu and the Punjab, provisions have been made for enlisting public opinion in support of the schemes. Like the C.P. and Jammu and Kashmir Acts, the Bombay Act provides for constitution of an advisory committee or panchayat to assist the Consolidation Officer in the preparation of the scheme. Such committees are formed in the villages by the Mamlatdar for

which notification under section 15 has been published in the Gazette.

Such is the detailed procedure adopted in consolidation of holdings in the Bombay and other States where specific laws have been passed for the purpose. It is of necessity lengthy and complex.

7. *Implementation of laws.*

It is not enough that a beneficent legislation is passed by Government and placed on the statute book. It is far more important to see that the laws enacted are quickly and properly implemented by the Government concerned. It is therefore proposed to assess the working and results of some of the Acts in the most important States like Madhya Pradesh, the Punjab, U.P., and Bombay.

Let us begin with the *Punjab* which has achieved better results by voluntary methods under the cooperative movement. In 1947-48, the membership of consolidation of holdings co-operative societies exceeded 2 lakhs and the consolidation operations resulted in the reduction of blocks from 18.24 lakhs to 2.86 lakhs. Till 1947-48, consolidation operations had been completed in 1,552 villages out of the total of 21,881. Since the consolidation was found to be slow, the State Government passed an Act in 1948 for compulsory consolidation. That Government has also prepared a plan for completing the consolidation work in 6 years. It has been proposed to levy an annual cess of Rs. 4 per acre on the land to be consolidated during six years ending 1959. This levy is expected to yield about Rs. 30 lakhs per annum. The consolidation fee will be reduced from Rs. 4 per acre to Rs. 2/8 and on the basis of 20 lakhs acres per year, the consolidation fee would yield about Rs. 50 lakhs. In addition to this, Government would make a grant of Rs. 10 lakhs per year. Thus, there would be about Rs. 90 lakhs per year for the purpose of consolidation.* This plan of consolidation has been revised by Government. Under the revised plan, the work in 40 tehsils out of 47 is proposed to be completed by August 1957 and in the remaining seven tehsils by August 1959. The total cost of the new scheme is estimated in the neighbourhood

of Rs. 495 lakhs.* By November 1952, agricultural holdings covering more than 2 lakhs acres have been completely consolidated with the result that the original target is exceeded.

In the U.P. in 1948-49, there were 422 consolidation societies and the area consolidated through them was 13,851 acres. The pace of consolidation under voluntary cooperation was however very slow. The U.P. Legislative Assembly therefore passed in about August 1950 a resolution requesting the State Government to take effective steps for the consolidation of holdings with a view to stepping up production of food grains.* The latest report† is that the Consolidation Committee appointed by the State has recommended consolidation on a compulsory basis. The Committee is of the view that Government should take the initiative in starting the consolidation work on the lines of the Punjab. It has also suggested that the work should be done by the officials with the assistance of the Village Advisory Committees to be set up under the Zamindari Abolition Act. A Consolidation Commissioner is to be appointed to co-ordinate the activities of the agencies engaged in this work. On the recommendation of the Special Committee, Government has decided upon a scheme of compulsory consolidation by a consolidation levy of Rs. 4 per acre on all landholders. The scheme has been started from the middle of the year 1953 in the community project areas and in villages selected for intensive development in other districts. It is gradually to cover the entire State in six to eight years. For the purpose, the U.P. Consolidation of Holdings Act, 1953 has been passed recently.‡

In Delhi, there were 53 consolidation co-operative societies by the end of the year 1947-48 and the area offered for consolidation amounted to 64,165 acres.§ It was reported§ that 110 villages would be brought under the scheme of consolidation every year and that a scheme covering 1.5 lakhs acres was to be initiated on the 1st November 1951. Under the Five Year Plan, Rs. 10.7 lakhs have been allotted for consolidation and the target laid down is 75,000 acres.

* Agricultural Situation in India, August 1952.

† Agricultural Situation in India, January 1953.

‡ See foot-note at p. 252.

§ Agricultural Legislation in India, Vol. II, Consolidation of Holdings, p. iii.

§ Agricultural Situation in India, October 1951.

In *Pepsu*, it was reported in November 1950 that Government had decided to complete consolidation of holdings within a period of 7 to 10 years. It is estimated that the work of consolidation would be completed by the end of 1956 at an estimated cost of Rs. 2 crores. Steps are in progress to speed up work.*

As regards *Bombay*, the legislation was brought into force on 8-4-1948, but the actual work of consolidation was started in 1950-51, as many preliminary formalities had to be gone through. The Act consists of two parts. The first part relates to the prevention of fragmentation and the second to the consolidation of holdings. The first part has already been implemented in the pre-merger area of the State, by fixing and notifying in the Gazette the standard areas varying from 5 gunthas to 6 acres on the basis of the productivity of the soil, nature of crop raised, etc.† The work about fixing the standard areas in the merged areas has been held over pending introduction of survey, classification and Record of Rights. As regards the second part of the Act (relating to the consolidation), it should be remembered that the consolidation is based on the ownership of lands and not on cultivation thereof. By July 1953, Government has notified 1810 villages under section 15. The schemes of consolidation have been completed in 767 villages in which the total number of holdings have been reduced from 273,575 to 142,079. Out of them, 406 schemes have been confirmed and published and have been enforced actually in 153 villages. Under the scheme, no tenant is deprived of his tenancy or put to loss. Village Committees have been appointed to assist the Consolidation Officer. The cost of consolidation is borne entirely by Government and no fee is levied on the holders. The annual expenditure incurred on these schemes is of the order of Rs. 7 lakhs. In the course of implementation of the schemes, no insuperable difficulty is experienced. At some places, the schemes meet with initial opposition on sentimental grounds which wears off gradually. The Bombay Government expects to complete the work in about 23,000 villages of the old Bombay State within

* Agricultural Situation in India, October 1952.

† Dry crop : 1 to 4 acres.
 Rice : 1 guntha to 1 acre.
 Garden : 5 gunthas to 1 acre.
 Varkas : 2 acres to 6 acres.

14 years from 1st April 1950 by tackling on an average about 1,500 villages per year.*

In *Madhya Pradesh*, the consolidation work was started as far back as 1926 and prior to that only nine villages were consolidated on a voluntary basis. Attempts made in 1926-28 produced only 10 successful schemes. After the enactment of the Act, the demand for consolidation increased. Till September 1945, holdings of 2,36,860 persons were consolidated successfully in 2510 villages covering an occupied area of 22,54,314 acres with 46,31,278 Khasra numbers which had been reduced to 8,16,726 or by 82% excluding the numbers of threshing floors, abadis, etc., which suffered no change at 'chakbandi' (consolidation of scattered holdings). The average size of a Khasra number has increased to about 2.50 acres from 0.50 acre before chakbandi.† During 1949-50, the work has extended to the Hosangabad district with a view to consolidating lands ploughed under the tractor ploughing scheme. By 1950, 2633 villages have been successfully consolidated involving about 23½ lakh acres. It has been stated that the Act may not prove so successful in the cotton growing tracts of Berar, where the holdings are already fairly large and where the 'soil and position' factors will make it difficult to persuade the cultivators to agree to an exchange of plots.

In the background of the attempts made at consolidation of holdings, the following facts emerge.

(1) The Acts passed before 1947-48 were permissive in character and laid much emphasis on the voluntary efforts of the villagers themselves. The working and results of those old Acts have pointed to the need for introduction of an element of compulsion in order to prevent a few recalcitrant persons to torpedo the entire scheme.

(2) So far, the consolidation work has been undertaken in the Northern India (e.g. the Punjab, the U.P., M.P.) and the Southern India has awakened pretty recently to the urgency of consolidation of discrete and dwarfed holdings. This is

* The average area per holding before and after consolidation is as under:

		Before	After
Gujarat	... ..	2.75 acres	6.78 acres
Maharashtra	... ..	3.75 "	6.0 "
Karnatak	... ..	5.06 "	7.47 "

† B. A. Bambawale I.C.S., Manual of Instructions on Consolidation of Holdings in the C.P. (1946), p. 2.

particularly because of the necessity for growing more food-grains to meet the food deficit.

(3) The path of consolidation has been made more smooth by removal of snags like the Zamindaris and special land tenures by the recent land reforms legislation. The Land Reforms Committees appointed in the different States have also recommended that restrictions should be placed on the rights of transfers and alienations with a view to creating reasonably sized economic holdings. So far, the Hyderabad Government has passed the necessary legislation to determine minimum economic holding (now family holding) to suit the local areas. In the U.P., the minimum limit has been prescribed at 6½ acres and at 5 (irrigated) and 15 (non-irrigated) acres in Madhya Pradesh.

(4) Lack of trained personnel, sentimental attachment of the ryots to the land and inaccuracy of village records have come in the way of quick consolidation.

(5) In the nature of things, the movement of consolidation is bound to be slow and costly. But the results so far obtained are encouraging, looking to the difficulties that lay in consolidation. The benefits of consolidation are too well known to need repetition here. In Madhya Pradesh, it is reported that the size of the Record of Rights has been reduced to about 1/5th of what it was before consolidation and that the annual paper work of the Land Records Department staff is considerably reduced. Besides, land values have appreciated very much, the crop-yields have increased, and the cost of produce for obvious reasons has been reduced.

(6) The fragmentation of holdings will continue so long as the laws of inheritance and the pressure of population on the land continue, but scatteredness of holdings will disappear almost permanently by consolidation.

8. *Criticism and suggestions.*

From the foregoing facts, it is clear that the object aimed at in consolidation is reduction of the number of holdings only. It does not aim at consolidation of cultivation or cropping. The time and cost involved in the operations are considerable. And the initial opposition to the schemes is found everywhere in some degree. In the circumstances, the first step should be intensive propaganda at all levels for educating the village people, where

the operations are to be started. The people should be made consolidation-minded for achieving quick and concrete results. It is found that the consolidation operations are at some places started on regional basis without careful regard to the urgency and need for consolidation. It is therefore first necessary to make a preliminary survey of the numbers of holdings and khatahs in a village in order to ascertain the scope of consolidation. After doing this, if it is found that the number of scattered holdings is small and the number of khatahs is many, the need for consolidation is really urgent. If consolidation is started in such places, there is a possibility of showing good results in consolidation. This point is sometimes forgotten in considerations which are extraneous to the essential consolidation.

Secondly, the procedure for consolidation is found to be slow and lengthy. Ways and means require to be devised by which the entire procedure can be shortened. As for example, in sections 19(1) and (2) of the Bombay Prevention of Fragmentation and Consolidation of Holdings Act, the period of 30 days has been prescribed at two stages for inviting objections. This period can be conveniently reduced to 15 days. Besides, the publication of the scheme in the Official Gazette under section 21 of the Act can be dispensed with on the score of expenditure and delay. This is more so because the scheme is also published at the Taluka Kutcheri and the village concerned after confirmation. And the Gazette is not within easy reach of the village people! The cost involved in publishing the scheme with pre- and post-consolidation maps and statements, etc., is found to be approximately equal to the cost of preparation of the scheme. Such a publication delays the final execution, i.e. handing over of the possession of lands of the consolidated blocks to the allottees; because if the scheme is not published before the end of March (during the agricultural year), it cannot be executed after publication till the beginning of the next agricultural year. For these reasons, the publication of the scheme in the Official Gazette may be dropped without any detriment to the consolidation processes.

According to the provisions of the Bombay Act (section 21), the agreement of all the owners of the lands affected by the scheme is essential before the Consolidation Officer can put

them in possession of the lands allotted to them. But if some of them do not agree for political or other reasons (which fact has happened in some schemes), the handing over of the allotted lands and thereby execution of the scheme is needlessly delayed on account of the recalcitrancy of a few persons. In order to remedy this, the provisions require to be amended so as to enforce the execution of the scheme after it is confirmed by Government at any time of the year provided 75% of the persons concerned agree to enter into possession of the allotted lands on a particular date. If such a provision is embodied in the legislation, it will have a very salutary effect on the minority of the owners who are recalcitrant.*

As the processes of consolidation are spread over several years, it is but natural that the cost involved would also mount up with the passage of years. At present, it is seen that in Bombay and other States where the Bombay model has been adopted, the entire cost of the consolidation has been borne by Government. And it is but proper that in the initial stages, Government should bear the cost in order to overcome the prejudice and inertia of the people. After Independence, every State Government has started many nation-building schemes, which require huge finance. And consolidation of fragmented holdings is one of the many nation-building schemes. As a result, if a State Government has to incur huge expenditure on one scheme, it would be at the cost of other schemes projected or already in the process of implementation. In view of the general financial stringency and after the passing of the schemes through the initial stages, it is necessary that the people who are to be benefited by the schemes should volunteer to contribute some portion of the entire cost. In order to expedite the consolidation processes and avoid burden on the public fisc, the Punjab Government has already planned to levy a cess of Rs. 4/- per acre on the lands to be consolidated. The cost-factor is very important and the owners of lands should contribute towards the execution of the schemes.

It has been noticed that the consolidation of plots does not necessarily create plots of "standard size", though it might

* Section 21 has been recently amended in order to empower the Consolidation Officer to allow the owners to enter into possession if at least 2/3rds of the owners affected agree to do so.

incidentally do so. It may further secure plots of standard size in ownership though not always in cultivation of land. As a result, the implementation of the Bombay and other Acts will result in creation of compact blocks; but that may not solve the fundamental problem of the size of farms in the present circumstances.*

We have seen that the primary cause of fragmentation is the operation of the laws of inheritance. The Acts passed for prevention of fragmentation make it illegal to create a fragment of less than the standard size notified for a particular area (e.g. the Bombay and the East Punjab Acts). Contravention of this provision renders the transfer or partition void and makes an owner liable to penalty. If no suitable buyer of a contiguous survey number is available, the fragment can be transferred to the State on payment of compensation to the owner. Despite this, so long as the laws of inheritance continue to be on the present pattern, it will be difficult to check partition. It was because of this that Sir Manilal Nanavati as a member of the Famine Commission (1945) suggested that the laws of inheritance should be suitably modified. He suggested that a 'medium holding' might be fixed on the basis of a "bullock-power unit". This unit in terms of acreage of different classes of land in different districts in a State might be settled on the basis of local inquiries. It was further suggested that legislation should be undertaken for securing that the right to such a holding might pass to a single heir, the excluded heirs being allowed a right to maintenance. In effect, he suggested that the principle of primogeniture should be adopted. This proposal was put up as complementary and not alternative to a programme of industrial development. Like the Royal Commission on Agriculture (1928), the Famine Commission did not approve of this suggestion particularly on the ground of social security.† After considering the previous proposals and attempts at prevention of fragmentation, the Mysore Land Revenue Revision Committee came to the conclusion that all schemes dealing with the evil of sub-division foundered on the rock of

* "Consolidation is no solution to the problem of un-economic holdings; but it is undoubtedly an important preliminary step to a more rational use of land"—R. N. Kaushik: *Agrl. Situation in India*, July 1953.

† Report of the Famine Inquiry Commission (1945) pp. 199-200.

inheritance and, therefore, suggested that until there was redistribution of population from agriculture to industry, it would not be opportune to interfere with the laws of inheritance.* After achieving Independence, Government has undertaken many revolutionary measures affecting the structure of the society. Among them, the reforms of the Hindu Law regarding marriage and divorce, tenancy and zamindari abolition, the Estate Duty Act, etc. would radically change the society. When the entire society is in the melting pot owing to the operation of the socio-economic forces, there seems no reason why the laws of inheritance should not be suitably modified for the benefit of the country at large. The Agricultural and Famine Commissions set their faces against such a move, because they did not consider it expedient to disturb the existing structure of the society. Perhaps, the reform of the laws of inheritance is overdue. At the same time, the question of increasing industrial employment for the surplus population should be considered very seriously by the Union and the State Governments.

In the result, all such measures for preventing fragmentation and consolidation of holdings should not be considered in isolation but be linked up with planning and the entire land development of the country. Unless these problems are considered comprehensively and the schemes pursued vigorously, it is unlikely that the evils inherent in fragmentation and the difficulties lying in the path of consolidation can be overcome even by a tediously long process and heavy cost.†

* Report of the Mysore Land Revenue Revision Committee (1950) pp. 102-03.

† The Saurashtra State has recently enacted the Saurashtra Prevention of Fragmentation and Regulation of Holdings Act, 1953. It seeks to secure maximum production, maximum economy and social justice. In broad principles, it follows the Bombay legislation and there is therefore no need to repeat the provisions here. But there are two distinguishing features of the legislation which deserve notice. Firstly, the Act defines the maximum holding as a holding the area of which does not exceed three times the economic holding as defined in the First Schedule of the Saurashtra Land Reforms Act, 1951 i. e. 32 acres on an average. Secondly, section 21 provides that nothing in the Act shall apply to any land reserved as gharkhed by or allotted for personal cultivation to a girasdar or a Barkhalidar under the provisions of the Saurashtra Land Reforms Act, 1951, or the Saurashtra Barkhali Abolition Act, 1951 up to Akhatrijii of Samvat year 1212. This seems to be a concession to political expediency.

At present, there are 1,84,835 occupants in khalsa area holding 53,95,890 acres of land. The distribution of holdings shows that there are only 1234 occupants holding more than 120 acres and the excess of land over 120 acres

held by such occupants is 2,00,369 acres. Thus the problem of big holdings is not at all of an appreciable size in Saurashtra.

Recently, the Uttar Pradesh Consolidation of Holdings Bill, 1953 has been passed by the State Legislature. The Bill seeks to replace the U. P. Consolidation of Holdings Act, 1939. Its main feature is that it provides for compulsory consolidation by the State at its own initiative, as in some other States like the Punjab, Pepsu and Bombay. Thus, it conforms to the latest trend of consolidation legislation in the country. Although the scheme of consolidation introduced by the State shall be binding on all, the Act lays down that the scheme shall be organised in close association with the land management committee appointed under U. P. Zamindari Abolition and Land Reforms Act. It provides for the payment of compensation to persons who get holdings of less market value than their original holdings or who have to part with standing crops during the process of exchange of lands.

The main provisions of the legislation are summarized below :—

(1) Every tenure-holder shall be, as far as possible, allotted land in the block in which he holds the largest part of the holding.

(2) The land in each village may be divided and grouped under the following blocks, namely:—

- (a) block of land producing rice only ;
- (b) block of land producing mainly ekfalsi crops other than rice ;
- (c) block of land which is mainly dofalsi, and
- (d) block of land subject to fluvial action of any river ;

(3) Only those tenure-holders shall get land in any particular block who already hold land therein.

(4) The number of chaks to be allotted to each tenure-holder excluding areas earmarked for abadi shall not exceed the number of blocks in the village unless there is only one block and the land is not more or less of a uniform quality.

(5) The tenure-holders belonging to the same family shall as far as possible be given neighbouring chaks.

(6) The location of the residential house of the tenure-holder or improvement, if any, made by him shall be taken into account in allotting chaks.

(7) Small tenure-holder shall be given land near the village abadi as far as possible.

(8) An existing compact holding or farm which is $6\frac{1}{4}$ acres or more in area shall not as far as possible be distributed or divided.

CHAPTER XVII

THE TENANCY REFORMS

SECTION I

1. *Introduction*

“Tenancy is a feature of land tenure system in many under-developed countries”.* In India, it is particularly an off-spring of the pressure of population on land, which developed in the zamindari and ryotwari areas. As Baden Powell has put it, “the continual changes that the succession of conquests and governments and the successive grants, usurpations and other acquisitions of interest, they have given rise to, have left different classes of rights in different stages of decay or preservation. The first result is that not a few of these “tenancies” are totally independent of any contract or grant of the present overlord or landlord.”† These were cases of natural tenant right. They were the “resident tenants” or individual soil-owners, perhaps, the “first clearers” of the land. There was not then much distinction between landlords and tenants. For example, under the Sikh rule in the Punjab, it was almost universally the case that the tenants were made to bear just the same burdens as the landlords. There were vast areas, which were waste and uncultivated. There was no land hunger of the type and magnitude we witness today. It is said that at the time of the enforcement of the Permanent Settlement Regulation in 1793, one half to two-thirds of Bengal was uncultivated. With the settlement and pacification of the countryside in the latter part of the nineteenth century, the population began to increase at every decade with the result that areas, which were hitherto waste, were brought under the plough; the land values enhanced, and persons with capital turned their attention to land as commercial investment. Consequently, the distinction between landlords and tenants became more defined and specific so far as the tenants’ liability to pay rent was concerned.

* United Nations : Land Reform (1951) p. 14.

† Baden Powell : The Land Systems of British India, Vol. I. p. 206.

But the tenancy position changed after the introduction of the Permanent Settlement in Bengal in 1793. Besides the Zamindars, those, who could show a right to hold independently of the Zamindar, were acknowledged; and all other cultivators became raiyats or tenants. The Bengal Land Revenue Commission has explained the position of cultivators as under:—

“From early historical times, the rights of cultivators were limited by those of the king or the persons to whom the king had made grants of the land. In those early days, their right was primarily a right to cultivate and they could be evicted for failing to cultivate properly. At the time of the Permanent Settlement, their holdings were heritable and, perhaps, transferable. Their rate of rent was limited by a customary but an undefined *paragana* rate, and they could be evicted for failing to pay their dues. But their rights had become obscure during the latter part of the Moghul rule by an administration, whose ever-increasing exactions of revenue were followed by the rack-renting of the raiyats. The Permanent Settlement omitted to define the limit of *paragana* rates and thus made raiyats liable to enhancements of rent.”*

In those days, eviction or oppression of tenants was very rare; and they did not need any protection then. Since land was abundant, owners were only too anxious to get and keep tenants.† Under the Permanent Settlement, however, the cultivators' position was undefined, and the burden of proving whether the produce rent demanded by the Zamindar was proper or not was thrown on the tenants. The tenants had no documentary evidence to substantiate their right with the result that they fell into arrears of rent. Owing to difficulty in recovery of rents, the Zamindars farmed out the villages to other persons. Thus, farmers and sub-farmers came into existence with the result that many intermediary interests in land between Government and the tiller of the soil came into existence. Subsequent Regulations of 1799 and 1812 placed the tenant practically at the mercy of the landlord. His property was rendered

* Report of the Bengal Land Revenue Commission, Vol. I. (1940), p. 27.

† Please see Chapter on “Khoti Tenure” in the author's book “Agrarian Reforms in Bombay”. The Khoti, Kauli and Katuban tenures arose out of the need to bring waste and uncultivated lands under cultivation.

liable to distraint and his person to imprisonment, if he failed to pay his rent, however extortionate it might be. It was only in 1859 that a law was enacted restraining the landlord's powers of enhancement in certain cases. Later, the Bengal Tenancy Act of 1885 was passed. It has served as a basis for the tenancy legislation in India.

In the non-zamindari areas, tenants came to be classed according to the "facts of their origin and position". Those tenants, who were in cultivating possession of land for a period of 12 years, were recognised as occupancy tenants. This "12 year rule" was accepted in 1859, when the Bengal Tenancy Act—the first tenancy legislation in India—was enacted. In subsequent laws in other parts of India, this rule was adopted. Like those in the Zamindari areas, there were not many intermediate interests in lands in the ryotwari areas.

As already stated, the tenancy system in India is an off-spring of pressure of population; however "tenancy is but a symptom of underlying causes such as inadequate prices for farm products and land speculation, burdensome taxes, high interest rates and high cost of transportation."* It is a powerful obstacle in three ways:—

- (1) A tenant has little incentive to increase his output, since a large share in such increase accrues to the landowner.
- (2) The high share of the produce taken by the landlord may leave the peasant with a bare subsistence with no margin for investments. In a bad year, he gets more heavily in debt, and, in a good year, he can reduce his indebtedness.
- (3) It means that wealth is held in the form of land and that accumulation of capital does not lead to productive investment.†

2. *Development of the Tenancy Legislation:*

In order to prevent deterioration of the landlord-tenant relations and adverse effects on the agricultural sector, Government considered the desirability of undertaking special legislation. It was first undertaken in the Zamindari areas, and then

* Moris, Paul V: "The land is mine", "From Tenancy to Family Farm Ownership" (1950).

† United Nations: Land Reform (1951), p. 18.

in the ryotwari areas. The tenancy legislation may be divided into three broad stages of development, viz.,

- (1) from 1859 to 1929,
- (2) from 1930 to 1939, and
- (3) from 1940 till date.

During the first stage, the following Acts were passed :

- (1) The Bengal Tenancy Act, 1859, as amended in 1885 and 1928.
- (2) The Bihar Tenancy Act, 1885,
- (3) The Punjab Tenancy Act, 1887,
- (4) The Agra Tenancy Act, 1901,
- (5) The Madras Estates Land Act, 1908,
- (6) The Chota Nagpur Tenancy Act, 1908,
- (7) The Orissa Tenancy Act, 1913,
- (8) The C. P. Tenancy Act, 1920,
- (9) The Jammu and Kashmir Tenancy Act, 1924, and
- (10) The Goalpara Tenancy Act, 1928.

The motive force behind the enactment of the above laws was the primary need to collect rent from the tenants of the Zamindari areas, where the arrears of rent were found on the increase owing to enhancement of rents and oppression by intermediate interests. And if the rents could not be collected, the Zamindars could not pay their dues to Government as fixed under the Permanent Settlement Regulation. As a result of oppression, there were many surrenders of tenancies. It is therefore clear that the need for a tenancy legislation was first felt in the Zamindari areas for realization of Government dues from the Zamindars.

During the second stage (1930-39), the following Acts were passed, viz.,

- (1) The Malabar Tenancy Act, 1930,
- (2) The Assam (Temporarily Settled Districts) Tenancy Act, 1935,
- (3) The Bhopal State Land Revenue Act 1932, (Chapter VII),
- (4) The U. P. Tenancy Act, 1939, and
- (5) The Bombay Tenancy Act, 1939.

In this stage, the kisan movements were started in consequence of the awakening caused by the Congress movement

in the country. The peasants as a class became vocal and demanded fixity of tenure, reduction of rents and other rights in trees, house-sites, etc. The Congress Ministries in Bombay and U.P. took the lead in enacting comprehensive legislation. It is remarkable that the Acts related to the ryotwari areas except the Uttar Pradesh.

The third stage is marked by a spate of the tenancy legislation practically covering many States in India. The laws enacted or in the process of enactment are as under :—

- (1) The Madras Estates Land (Reduction of Rent) Act, 1947,
- (2) The Assam Adhiar Protection and Regulation Act, 1948,
- (3) The Bombay Tenancy and Agricultural Lands Act, 1948,
- (4) The U.P. Agricultural Tenants (Acquisition of Privileges) Act, 1949,
- (5) The Santal Pargana Tenancy (Supplementary Provisions) Act, 1949 as amended in 1951,
- (6) The Ajmer-Merwara Tenancy and Land Records Act, 1950,
- (7) The Madhya Bharat Revenue Administration and Ryotwari Land Revenue and Tenancy Act, 1950,
- (8) The Orissa Government Lands (Bar to Acquisition of the Rights of Occupancy) Act, 1950,
- (9) The West Bengal Bargadars Act, 1950,
- (10) The Berar Regulation of Agricultural Leases Act, 1951, as amended in 1953,
- (11) The Saurashtra Land Reforms Act, 1951,
- (12) The Saurashtra Barkhali Abolition Act, 1951,
- (13) The Punjab Tenancy (Himachal Pradesh Amendment) Act, 1952,
- (14) The Himachal Pradesh (Rights and Restoration) Act, 1952,
- (15) The Bhopal State Sub-tenants Protection Act, 1952,
- (16) The Punjab Occupancy Tenants (Vesting of Proprietary Rights) Act, 1952,
- (17) The Pepsu Occupancy Tenants (Vesting of Proprietary Rights) Act, 1952,

- (18) The Pepsu Agricultural Lands (Limitation of Ownership) Bill, 1952,
- (19) The Mysore Tenancy Act, 1952,
- (20) The Rajasthan Tenancy Bill, 1952,
- (21) The Vindhya Pradesh Sir Lands (Stay of Ejectment Proceedings) Act, 1952,
- (22) The Tanjore Tenants and Pannaiyal Protection Act, 1952,
- (23) The Orissa Share-croppers Protection Act, 1953,
- (24) The Punjab Security of Land Tenures Act, 1953,
- (25) The Travancore Prevention of Eviction Act, 1124, (M)*
- (26) The Travancore Oodukoor Settlement Proclamation, 1122, (M)
- (27) The Travancore Holdings (Stay of Execution Proceedings) Act, 1950,
- (28) The Travancore Enfranchisement of Sirkar Pattom Lands Proclamation, 1940,
- (29) The Travancore Jenmi and Kudiyan Act,
- (30) The Travancore Edavagai Act III of 1109, (M)
- (31) The Cochin Tenancy Act XV of 1113, (M)
- (32) The Cochin Verumpattomdars Act III of 1118. (M).

Besides the above Acts, the old Acts in the Zamindari and other areas have been substantially amended in the post-Independence days. The reasons for an all-round enactment of tenancy laws are to be found in the Congress Ministries, who are directed by the Congress High Command to settle the landlord-tenant relationship by undertaking suitable laws in each State. As a result, legislative attempts have been made to give "3 fs" to tenants, viz., fixity of tenure, fixed rent and free transferability.

3. *Statewise Legislation*

Now, it is proposed to pass in review Statewise the legislative measures adopted to settle the landlord-tenant relationship as a step preliminary to the abolition of the Zamindari and non-ryotwari tenures. The States are arranged below according to the principal Act, which governs or has influenced the tenancy relations therein.

* (M) represents the Malayalam era.

GROUP I. *The Bombay Tenancy and Agricultural Lands Act, 1948.*

1. Bombay.
2. Hyderabad.
3. Saurashtra.
4. Kutch.
5. Mysore.

GROUP II. *The Bengal Tenancy Act, 1885.*

6. West Bengal.
7. Assam.
8. Bihar.
9. Orissa.
10. Uttar Pradesh.
11. Madras (Part).

GROUP III. *The Punjab Tenancy Act, 1887.*

12. Punjab.
13. Pepsu.
14. Delhi.
15. Bilaspur.
16. Himachal Pradesh.

GROUP IV. *Different Laws.*

17. Madhya Pradesh.
18. Madhya Bharat.
19. Rajasthan.
20. Ajmer-Merwara.
21. Vindhya Pradesh.
22. Bhopal.
23. Travancore-Cochin.
24. Coorg (no law).
25. Jammu and Kashmir.

Now, an attempt is made to review the tenancy laws of each State with particular emphasis on their special features.

1. BOMBAY.

In Bombay, there was no special law regulating the relations between landlords and tenants. The landlord-tenant relations were mostly governed by mutual contract or local usage and custom. The provisions of section 83 of the Bombay Land Revenue Code, 1879 constituted the tenancy law of the State. The Khoti Settlement Act, 1880 regulated the relations of khots and dharekaris, quasi-dharekaris and permanent tenants. It was left to the Congress Ministry to enact a tenancy legislation called the Bombay Tenancy Act, 1939. It introduced a new concept of a "protected tenancy". This class of tenants covered those tenants, who held lands continuously for a period of not less than six years immediately preceding the 1st January 1938. The Act gave to the tenants for the first time a fixity of tenure, rentals, house-sites, right to trees, protection from eviction, etc. In the beginning, it was applied to the districts of Surat, Thana, West Khandesh and Dharwar and the "partially excluded areas", as an experimental measure, and was to be extended to the remaining parts after gaining some experience. When the Congress Ministry came into power in 1946, the Act was applied to the whole State. In the administration of the Act, some defects were noticed. In order to remedy this state of affairs, a new legislation called the Bombay Tenancy and Agricultural Lands Act, 1948, was passed which retained the beneficent provisions of the Act of 1939 and added others. This Act is a comprehensive measure of a unique character.

The objectives of the legislation are the settlement of landlord-tenant relations and efficient cultivation of land with the ultimate aim of establishing peasant proprietorships in the State by a gradual process of evolution. The relations between landlords and tenants are sought to be settled by

- (i) giving the tenants fixity as to tenure (sections 5 and 15), trees (section 19), rental (section 6), house-sites (sections 16, 17 and 42),
- (ii) providing commutation of crop-share into cash (section 8),
- (iii) abolishing various veros, haks, cesses, etc., of an obnoxious nature levied under custom or usage (section 11),
and

- (iv) suspension and remission of rent under certain circumstances (section 13).

The efficient cultivation is sought to be achieved by

- (i) prohibiting sub-letting and sub-division (section 27),
- (ii) encouraging joining of co-operative societies (sections 34(2)(b) and 27(2)),
- (iii) assuming management by Government of landholders' estates in the case of disputes between landlords and tenants or for ensuring fuller utilization of land (section 44),
- (iv) prohibiting transfer of agricultural lands to non-agriculturists and determining priorities in the matter of transfer of lands (sections 63 and 64),
- (v) enabling a protected tenant to purchase land of a landholder at a reasonable price payable in instalments (section 32),
- (vi) assuming management of land lying uncultivated for any two cultivating seasons (section 65),
- (vii) acquiring any estates or land under management (section 66), and
- (viii) restricting resumption of land held by a protected tenant for personal cultivation or non-agricultural use by a landholder (section 34).

In short, Government aims at making the tiller of the soil the owner of land in order to achieve the optimum utilization of land.

Under the Act, three categories of tenants are recognised:

- (1) permanent tenant;
- (2) protected tenant, and
- (3) ordinary tenant for 10 years.

In the State, the number of cultivators is as follows:—

(1) owner cultivators	32,74,172
(2) permanent tenants	3,51,118
(3) protected tenants	13,94,704
(4) ordinary tenants	7,21,294
(5) absentee landlords	7,67,807

As regards the permanent tenants, section 30 provides that the rights and privileges settled under other Acts are not affect-

ed by this Act. These tenants continue to enjoy rights and privileges, as hitherto.

The protected tenants are those tenants, who held land continuously for a period of not less than six years immediately preceding either

- (a) (i) 1st January 1938,
(ii) 1st January 1945,
and had cultivated such lands personally during the aforesaid period;
- (b) tenants holding lands for one year on 8th November 1947, and
- (c) tenants evicted after 1st April 1937 or 1st April 1944, who were personally cultivating lands for a period of not less than six years.

These tenants are given special rights to purchase land at a reasonable price of land to be determined by the Tribunal. The price is payable in lump or in such instalments not exceeding ten within a period of 15 years. But special provision has been made for fixing the amount of the maximum price in the case of the tenants belonging to the members of the Scheduled Castes or the Scheduled Tribes. But this right to purchase the landlords' lands is hedged with certain conditions.

- (a) If such a tenant does not hold arable land as an owner, he can purchase lands to the extent of 50 acres.
- (b) If he holds any arable land as an owner, he can purchase land upto the limit which would make up a holding of 50 acres.
- (c) But in this process of purchase, the total arable area remaining in the ownership of the landlord is not to be less than 50 acres.

Such a tenant has a right to exchange his tenancy.

The landlord's right to terminate the tenancy of such tenants is circumscribed. He can resume land for making non-agricultural use and personal cultivation. A landlord cannot resume land even for personal cultivation by terminating the protected tenancy,

- (1) if he has been cultivating personally other land measuring 50 acres or more; but if the land so cultivated

- is less than 50 acres, he can resume land so as to make up a holding of 50 acres;
- (2) if such a tenant has become a member of a co-operative farming society;
 - (3) if the income by the cultivation of such land is not the main source of income of the landlord for his maintenance (this is a very important condition), and
 - (4) if the said land does not stand in the name of the landlord on the 1st January 1952 as superior holder.

The amended section 34 introduces for the first time a new concept of "agricultural holding" which means 16 acres of jirayat land or 4 acres of irrigated or paddy or rice land or lands greater or less in area than the aforesaid areas in the same proportion. Specific provision has been made regarding the extent of the agricultural holding which can be resumed for personal cultivation. Government has issued a notification directing that the limit of 50 acres specified in section 34 should be equivalent to 12½ acres of paddy or bagayat lands or both kinds of lands. Thus, Government is empowered to reduce the limit of maximum acreage of 50 acres in the case of individuals. This step has been taken in order to check the landlord's tendency to recover the best kinds of lands from tenants under the pretext of personal cultivation. If the landlord fails to cultivate the land personally within one year of termination of the tenancy, it is to be restored to the evicted tenant. If any improvements are effected by such a tenant, he is entitled to compensation on termination of the tenancy under the Act.

In 1951, information was collected about the protected tenants, who purchased lands during 1948 to 1950. It is tabulated below:—

Number of protected tenants who took advantage of section 32 (1).	Total area of lands so purchased.	Amount of purchase money paid to landlords.
9,706	43,090 acres.	Rs. 1,12,94,519.

These figures show that the number of tenants, who have purchased lands, is not large, presumably because of the shrinkage of rural credit. In order to ease the position, the Act has been amended so as to enable tenants to pay the price of land in easy instalments.

The protected tenancy rights are heritable.

As regards the ordinary tenants, the tenancy is for a period of 10 years renewable for successive periods of ten years subject, however, to the landlord's right to determine tenancy for the purpose of non-agricultural use or personal cultivation.

Rent:

The provisions of rent are found in sections 6, 7, 8 and 12 of the Act. The rent has been defined as any consideration in money, kind or both paid or payable by a tenant on account of use or occupation of the land held by him, but does not include the rendering of any personal service or labour. Amongst all the Tenancy laws of India, such a definition of rent specifically excluding personal service to the landlord is found in very few Acts. Section 6 provides that the maximum rent payable should not exceed $\frac{1}{4}$ th and $\frac{1}{3}$ rd of the crop in the case of irrigated and non-irrigated lands, respectively. However, Government is empowered to fix a lower rate of the maximum rent by a notification. By notification issued under section 6(2) of the Act, Government has accordingly fixed the maximum rent at $\frac{1}{6}$ th of the crop or its value irrespective of the fact whether the lands are irrigated or non-irrigated. In the case of cash rent, such a notification has been issued fixing a lower rent of maximum rent in certain areas as follows:—

- (a) (i) in the case lands on which assessment not exceeding Rs. 4 per acre is levied or is leviable according as the lands are fully assessed or are totally or partially exempt from payment of assessment, a rate equal to five times the assessment, and
- (ii) in the case of lands on which assessment exceeding Rs. 4 per acre is levied or leviable, a rate equal to $2\frac{1}{2}$ times the assessment or a rate equal to Rs. 20 per acre, whichever is more, and
- (b) $\frac{1}{6}$ th of the crop of lands or its value as the maximum rent payable by tenants of lands.

It may be stated that the Act of 1948 has been amended in every legislative session for providing matters, which are found necessary in the process of implementation.

The legislation is a comprehensive measure and has been adopted as a model for tenancy laws in Saurashtra, Hyderabad, Mysore and Kutch. But a few remarks and suggestions are offered below in the interests of agricultural economy.

(1) It does not contain provisions for ensuring good husbandry on the lines of the English legislation. Such a provision did exist in the original Bill published in 1948; but it seems to have been dropped during the second reading of the Bill in the State Legislature.

(2) Like the U.P. legislation, it does not contain provisions for formation of co-operative farming societies, although it encourages joining of such societies (sections 34(2)(b) and 27(2)). A positive provision in this respect is required to be made in the Act.

(3) The amendments made in the autumn session of 1952 regarding the "agricultural holding" and the landlord's right to resume lands for personal cultivation as contained in the amended section 34 are not quite easy to grasp, let alone the practical difficulties in implementation. Those provisions are beneficent, but should be clear to a layman, an expert and the administrator alike. They require to be simplified.

(4) Except the right of a protected tenant to purchase land under section 32, there is no positive provision to confer occupancy rights on the tenants as is found in the Madhya Pradesh legislation. Of course, this is being done by several land Reforms Acts enacted by Government. Despite this, it is expedient to provide for conferment of occupancy rights on the tenants whether permanent, protected or periodical by payment of occupancy price in multiples of assessment, where necessary. Of course, the permanent tenants should be made occupants without payment of occupancy price to anybody.

(5) Provision for payment of price of land in easy instalments during a period not exceeding 15 years is not proper. It is likely to create complications in accounts, as the recovery of the amounts will have to be watched by the taluka and village officers for a very long period. With the increase in the land laws and restrictive laws on money-lending, the rural credit has been frozen. Tenants have no wherewithal to purchase

lands even on easy terms. In order to avoid these difficulties, the Act should provide for grant of loans to the tenants from the Land Mortgage Banks, as has been done in Saurashtra.

(6) The provisions for assumption of Government management under section 44 require to be enforced after very careful and mature consideration of all facts about any estate. Provisions, even though beneficent, create bitterness, if badly implemented.

(7) Now time has come, when the ordinary tenants should be levelled upto the status of protected tenants, and the protected tenants to that of permanent tenants, if not occupants. This process of levelling up of the cultivators' right requires to be expedited.

(8) Recently, the maximum rents payable by the tenants have been fixed at 1/6th of the crop and Rs. 20 per acre in terms of multiples of assessment. As a result, the rents have been frozen at those maxima in the whole State. The landlords have protested against these orders, because if the rent is reduced to 1/6th of the crop and Rs. 20 per acre, they will have little left after payment of land revenue and local fund cess. The ownership of land loses all charm or attraction in this context; because the landlords do not get any adequate return from the money invested in land. It seems that this measure has been adopted to make ownership of land by absentee landlords as uneconomic or unattractive, and possibly to make the change-over of ownership to tenants as easy as possible. But these orders seem to lose sight of one fundamental fact of the settlement of land revenue. According to section 117 G(2) of the Land Revenue Code, 1879, the rental values and sale statistics of land form a valuable guide in revision of land revenue at the time of the periodical settlements. The rents are now frozen and with restrictions on transfers of lands under this Act, the agricultural land values have gone down. It is noticed that persons are not prepared to invest any money in land now, either for improvement or purchase, because the land is to pass on to tenants some day or the other at a cheap value. They apprehend that what money is invested in land will be lost. Land has practically ceased to be an object of investment by the public. In these circumstances, the rental and sale sta-

tistics, which are practically the basis of our revision settlements, cannot serve as a useful guide to the settlement officers. In the circumstances, it is feared that the basis of our settlements has been knocked out by the refixation of the maximum rents under this Act. As a result, we have come to such a pass that either we will have to take prices of agricultural produce as a basis of future settlements or revise the Land Revenue Code for providing an alternative reliable and tangible basis.

(9) Many complaints are heard about the implementation of the Act at the taluka and village levels. It is now five years since the enforcement of the Act on 28th December 1948. It is absolutely necessary to appoint a small committee of members of the State Legislature, leading agriculturists, and officials to make a periodical assessment of the working and results of the Act. It is also necessary to ascertain whether the Act has really benefited the tillers of the soil or has created difficulties in the existing agricultural land ownership. It also requires to be ascertained whether the security of tenure afforded to the tenants under the Act has resulted in greater production of food crops. As the landlords complain that the Act is implemented at all levels—from Government to the village—to the detriment of their rights to hold private property, its effects on the entire agricultural sector require to be assessed as early as possible. This is an urgent need of the hour and Government may consider seriously the appointment of a small committee for the purpose.

Recently, section 6(2) and the notification of October 17, 1952 fixing a lower rate of maximum rent was challenged in the High Court by certain landlords of Kumta, Sholapur and Umbergaon (Thana District). It was contended on behalf of the petitioners that section 6(2) of the Act in so far as it delegated to the State Government its legislative power of fixing the amount of rent payable by the tenant to the landlord was *ultravires*, and the State Legislature could not efface itself by entrusting to Government its function to legislate. A Division Bench of the High Court decided that the Act could not be challenged under Article 31(b) and 19(1)(f) of the Constitution. The Bench upheld the notification and Government's right to fix a lower rate of maximum rent. But it made

certain pertinent observations in regard to the landlord-tenant relations. As they are very important and meant for a wider world, they are reproduced in extenso:

“But so long as our Legislature is not pledged to the abolition of landlordism as such and so long as landlords are expected to play their proper role in the national economy, it is but right that the landlords should feel that the State in protecting the tenants is not becoming unfair and inequitable to the landlords.

“So long as the landlords and tenants exist, our national economy can only flourish provided they both play their respective roles as good citizens and contribute to the welfare of the State. Therefore, it is extremely desirable that a sense of security should be given to the landlords. . . . Although power is given to the Government to issue notifications from time to time, some indication of their policy should be given to the landlords so that they should know that beyond a particular point, the rent would not be reduced.”

These observations are made by the High Court with the hope that Government would adopt a realistic policy in future so far as the landlord-tenant relations are concerned.

2. HYDERABAD.

In the Hyderabad State, the ryotwari system is prevalent in the Diwani area with the result that there are not many intermediaries between the Government and the actual tiller of the soil, as in other Zamindari States. The landlord is called by different names such as “raiyat,” “pattedar”, “registered occupant” or “khatedar”. Although theoretically the ryotwari system did not originally recognise or contemplate the existence of any intermediary between the State and the registered occupant, the unrestricted right of transfer given to the occupants resulted in the creation of a class of non-cultivating owners or pattedars, who leased out their lands to tenants and became rent-receivers. Thus, in Hyderabad as in other States of India, absentee landlordism and tenancy-farming had their origin in the latter half of the 19th century. This was particularly because with the security afforded by the British rule, land became a source of commercial investment.

The problem, however, became acute in the non-Diwani area, which covered the Jagirs. The Jagirdars did not concede the occupancy rights to their cultivators. The Tenancy Committee of 1940, therefore, observed that "there are other reasons also why survey in alienated villages is not accelerated. Some owners of alienated villages want to treat all cultivators as mere tenants so that they can enhance the rent or assessment of old cultivators—the complaint was that the Jagirdars and Makhtedars had manipulated their wasulbaki and jama-bandi papers so that many old cultivators were entered in the settlement papers as tenants of the holder of the alienated village or his relatives."*

Till the Asami Shikmi Act of 1354F¹ was enacted, there were two kinds of tenants, viz.,

- (1) Shikmidars, and
- (2) Asami Shikmis.

The Shikmidars were permanent tenants and possessed rights similar to the pattedars. The Asami Shikmis were persons responsible to the holder for payment of 'Lagan' (rent). If he could prove 12 years' continuous possession, he was deemed to be a Shikmidar. But in practice, it was very rare that such a tenant could prove such a period of continuous possession. The rents also differed. They consisted of Batai, money rent or fixed grain rent.

The Hyderabad Government appointed a Tenancy Committee by a Guzarish dated 10th Aban 1347F² under the chairmanship of Shri S. M. Bharucha. It arrived at the conclusion that the tenant population was estimated at 40% of the land-owning class. The Committee felt that the aim of tenancy legislation should be "to harmonize relations between the landlords and the tenants and not to widen the gulf between them". After careful consideration, it came to the conclusion that the Bombay Tenancy legislation should be accepted as a model, because it is "a just and mild enough measure". On the recommendations of the Committee, the Hyderabad Asami Shikmis Act in Fasli 1354 was enacted. This Act has been subsequently repealed by the Hyderabad Tenancy and Agricultural

* Report of the Hyderabad Agrarian Reforms Committee (1949) p. 14.

Lands Act, 1950. Even this Act has been amended twice in 1951 by First and Second Amendments to the Act.

The Act has followed the Bombay Act with the result that several provisions are similar to those found in the Bombay legislation. For example, the provisions regarding protected tenancy, right to trees, house-sites and dwelling places, maximum rent at 1/3rd or 1/4th of the non-irrigated and irrigated lands, remission and suspension of rent, termination of tenancy under certain conditions, restrictions on transfer of land, management of uncultivated and improperly cultivated lands, etc.

Apart from the similar provisions pointed out above, the Act has certain distinguishable features which make the measure more progressive than its Bombay model. Unlike the Bombay Act, the legislation provides for the fixation of family holdings and the formation of the co-operative farming societies. Besides, there are other minor distinctive characteristics also.

Before these features are considered, a few general provisions are dwelt upon. The Act recognises two categories of tenants, viz., (1) protected tenants and (2) Asami Shikmis. The rent includes any consideration payable in cash and/or kind but does not include personal service or labour.

The Act prohibits generally any lease of land after 3 years from the commencement of the Act with the result that no tenancy can be created thereafter except in the cases of minors, females, persons with physical or mental disability, service in the Naval, Military or Air Force. All leases made within 3 years of the coming into force of the Act are to be deemed to have been made for 10 years. All leases made in contravention of the Act are to be void. Sub-division, sub-letting and assignment are prohibited.

The concept of fixation of an economic holding is a new yardstick in this State. The Act provides for determination for all or any class of land in any local area the minimum area of an economic holding, which would be capable, in the opinion of Government, of yielding sufficient produce to enable the holder to maintain a normal family of five persons in reasonable comfort according to the prevailing standards after meet-

ing all necessary expenses and without resort, save in exceptional circumstances, to the raising of loan. Such a holding and every interest therein are impartible and shall not be liable to sub-division. Further, cultivation and occupation of such a holding by two or more persons or of a part only is prohibited.

As regards the formation of co-operative farming societies, it appears that the provisions of the U.P. Tenancy Act have been adopted as a model. If an application is made to the Registrar of Co-operative Societies by any ten or more persons of a village or two or more contiguous villages holding between them either as landlords or protected tenants, rights in and possession over 50 acres or more in such a village or villages for formation of a Co-operative farming society, the Registrar has to make inquiries and grant a certificate of registration. Provision has also been made for formation of a co-operative farm of uneconomic holdings, if not less than two-thirds of the total number of land-holders holding rights in such holdings in a village or contiguous villages apply jointly for the formation of a co-operative farm.

Every member of the farm is bound to contribute to the farm, to the extent and in the manner prescribed, funds, personal labour, agricultural implements, agricultural stock and such other articles. The farm is liable to payment of land revenue and other cesses payable by the land-holder in respect of land held by it. In order to accelerate the growth of such farms, the Act provides for certain concessions and facilities in the shape of reduction of land revenue, exemption from agricultural income tax, free technical advice, financial aid, grant of subsidies and loans and priority in irrigation from the State works.

Lastly, the Act does not apply to

- (1) lands leased, granted, alienated or acquired in favour of or by the Government, a local authority or a Co-operative society;
- (2) lands held on lease for the benefit of an industrial or commercial undertaking;
- (3) inams held by religious or charitable institutions,

- (4) service inams, and
- (5) inams and such other lands, as may be prescribed.

Thus, the Hyderabad legislation strikes a new pattern in the scheme of the tenancy legislation in India.

Under this Act, about 5 lakhs of tenants in 22,000 villages have become protected tenants with the option of becoming real owners of the lands by paying to the landlords three times the annual gross produce of the land.

THE AMENDING BILL OF 1953

On the lines of the recommendations made in the Planning Commission's land policy, a Bill making further changes in the Hyderabad Tenancy and Agricultural Lands Act, 1950 was introduced in the Legislature. The chief features of the Bill are the following:—

Family Holding.

1. For the administration of land reforms in future, the yard-stick, that will be used is, instead of an economic holding, a "family holding", which term has been defined as representing an extent of land which can be cultivated by a working family of five members as a plough unit, and which will yield a net annual income of Rs. 800/-.

Rents payable.

2. Immediate relief is to be given in regard to rents to the tenants. Against the existing maximum of 1/3rd of the produce in respect of wet lands, and 1/4th in respect of dry lands, rents are to be fixed in terms of land revenue; the multiples are:

- (i) dry land, *chalk* soil: 4 times the land revenue,
- (ii) dry land, black cotton soil and *bagat* lands: 5 times the land revenue,
- (iii) wet lands irrigated by wells: 4 times the land revenue, and
- (iv) wet lands irrigated by other sources: 5 times the land revenue.

Rents will be payable in cash; but the tenants have the option to pay in kind, from the produce grown on the land, of an equal value at the prevailing market prices.

Personal Cultivation.

3. The extent of land, which can be resumed for personal cultivation from a protected tenant, is at present 5 times the economic holding. This has been reduced as follows:

- (a) A landlord may resume upto 3 times the family holding provided that each of his tenants is left with a family holding.
- (b) A landlord can resume upto two times the family holding provided each of his tenants is left with a basic holding, being $\frac{1}{3}$ rd of the area of a family holding.
- (c) A landlord can resume land upto a family holding for personal cultivation irrespective of whether any land is left to the tenants or not.
- (d) The right of termination of the tenancy of protected tenants shall cease after 5 years.

4. To enable the small and medium cultivators to retain their contact with village life while relieving pressure on land by taking to other vocations elsewhere, future tenancies are allowed in the case of land-holders with less than three times the family holding. But every lease will be for a period of 5 years renewable for a like period subject to the condition of resumption earlier for personal cultivation on one year's notice.

Future acquisitions

5. A ceiling has been put on future acquisitions of land. A person can purchase land only upto 3 times the family holding.

Purchase by tenants:

- 6. (a) The price, which a protected tenant has to pay to buy out the landlord, is at present 3 times the annual gross produce. This has been reduced to 12 times the rent in the case of wet lands and fifteen times the rent in the case of dry lands.
- (b) A protected tenant is permitted to pay the price in instalments not exceeding 10 during a period of 8 years, with interest at 3% per annum on the balance of the price due.

7. The extent of land, which a protected tenant can force a landholder to sell in this way, is limited to the "family holding" including any land that he may already own. This is subject to the proviso that the extent of land left to the landlord, after the purchase, shall not be less than 2 times the family holding.

8. Power has been taken to declare protected tenants as owners from a date notified, subject to the conditions stated above. If they commit default in respect of any instalment of the price due to the landlord, it will be collected as arrears of land revenue and paid to the landowner.

9. A protected tenant is made eligible for *taccavi* loans on the security of his interest in the land.

Evictions

10. The definition of personal cultivation has been revised so as to exclude payment in crop-share to avoid the tendency of landlords taking *Nowkarnamas* (labour service agreements) from the tenants to deprive them of the benefits of tenancy legislation.

11. To check the tendency of the landlords to evict tenants on the plea of termination of tenancy or voluntary surrender, it is made obligatory for such surrender to be admitted and certified before the Tahsildar.

12. Landholders are enabled to apply only for collection of rent before the Tahsildar, instead of compelling them to ask for evictions for failure to pay rents as at present.

Surplus lands

13. Standards for efficient cultivation are to be prescribed. Lands in excess of $4\frac{1}{2}$ times the family holding held by a landholder (representing a net income of Rs. 3,600 per annum) will be taken over for "public purposes," unless lands are so efficiently managed according to the prescribed standards that a break-up of the holding will lead to a fall in production.

14. In regard to lands, which do not come up to the prescribed standards of cultivation, the Government may take over the whole of the holding or that portion of it, which is in excess of 3 times the family holding.

15. For the lands the management of which has been taken over by Government, compensation will be paid in the following manner:—

- (a) a recurring payment of the maximum rent suitable to the class of land;
- (b) a lump sum payment for other losses, such as expenses on account of vacating the land or re-occupying it or any damage caused during the period of management.

16. Where the amount of compensation cannot be fixed by agreement, a reference to the arbitration of a person qualified for appointment as District Judge is provided for.

17. The management of lands may be entrusted to a Village Panchayat or a Co-operative Farming Society.

18. In leasing out these excess lands, preference in allotment will be given to Co-operative Farming Societies, agricultural workers working on the said lands, landholders or tenants, who cultivate personally less than a family holding and other landless persons.

19. The persons to whom such lands have been leased are made eligible for purchase of the lands, but the price they will have to pay will be equal to 20 times the rent for dry land and 16 times the rent for other lands.

Fragmentation:

20. It is sought to stop further fragmentation of land by prohibiting transactions, which result in reducing the extent of any holding below basic holding, from a date to be notified.

21. Provision is also made for consolidation of holdings.

Land Census:

22. For the implementation of these reforms, a correct record of the present land holdings and the methods of cultivation is necessary. Power is, therefore, taken to order a Land Census and require every person, who has any kind of interest in land to furnish correct information to the authorities.

23. A Land Commission is to be established for the State consisting of 7 members, 3 of whom shall be selected by the Legislature. One is to be an official and the rest are to be

nominated by the Government from among persons, who have special knowledge or practical experience in agriculture.

24. It will be the duty of this Commission to advise the Government in fixing the basic and family holdings for each local area, the extent of surplus lands that can be taken over from the landholders, and generally, with regard to the agrarian policy, which Government may from time to time follow.

25. The Land Commissions for smaller areas may also be established in consultation with the Land Commission for the State for a similar purpose.*

The Bill was referred to the Select Committee, which presented its report in September 1953. It has recommended a family holding that would fetch a net annual income of Rs. 800 after meeting the cultivation expenses. The maximum holding is to be $4\frac{1}{2}$ times the family holding. The State Congress Chief has disagreed with the Select Committee's report. The report is criticised by some members, who consider that the family and maximum holdings fixed are high. It would affect six lakhs of protected tenants in the State and would reduce the quantum of surplus land available for distribution. It is, therefore, suggested that the size of the family holding should be determined on the basis of land revenue and should be an area, land revenue of which should not exceed Rs. 30 in the case of dry land and Rs. 48 in the case of wet lands. But amendments moved to this effect are defeated in the State Legislature. Dr. Katju has advised the Congressmen that the family holding should not be based on the land revenue.†

It is understood that in order to implement the proposed programme of land reforms, the Land Commission has been established. Its duty will be to advise Government in fixing the basic and family holdings for each local area, the extent

* The Hyderabad Government Bulletin on Economic Affairs (Vol. VI, Nos. 3-4, Mar.-Apr. 1953).

† According to a press report in the Times of India dated 6-10-53, the landholders holding 100 acres and more each form 6% of the total number of pattedars and they own 38% of the total acreage. If the ceiling is placed at 100 acres, the surplus lands that can be acquired from big pattedars, will be over 6 million acres. After allowing 10 acres each to 340,000 landholders with less than that average, the balance can be distributed at 10 acres each amongst almost 3,00,000 landless labourers. A ceiling of 50 acres enables 8,00,000 landless labourers to be given 10 acres each.

of surplus land that can be taken over and on agrarian problems in general. The amending Bill has been passed by the State Legislature, recently.

3. SAURASHTRA

Before the formation of the State of Saurashtra in February 1948, the peninsula of Kathiawar was made up of more than 200 different administrations. The general system of assessment was crop-share. Out of the total number of villages (4415), 2689 villages were khalsa and the remainder non-khalsa (Girasdari, Barkhali, etc.). In the khalsa areas, cultivators were in law tenants-at-will, whose lands could be resumed by the State at its sweet will. The bhagbatai system prevailed. Besides, other cesses, babs and 'Veth' (forced labour) were rampant. Government declared that all tenants of the Khalsa lands would become occupants straightway without payment of any occupancy price and the assessment was ordered to be recovered in cash instead of in kind. All obnoxious taxes and cesses were abolished.

But in the non-khalsa villages, the problem was very complicated, because of the existence of the long-standing intermediate interests. The intermediaries had different relationships with their tenants. All tenants in those villages were tenants-at-will, who could be evicted by giving a notice before the beginning of the agricultural (crop) year. But the tenants, from whom the landlords had taken occupancy price, could not be so evicted. The legal position of such tenants was, however, not clearly defined with the result that landlords could evict such tenants under certain circumstances. The rent in crop-share payable by a tenant varied from $\frac{1}{4}$ th to $\frac{1}{2}$ of the crop. He was also liable to a santi vero (plough tax) from Rs. 20 to Rs. 40 per santi of about 40 acres. Besides, he had to pay various lagas, lettries, and cesses such as Havaladari, Sukhadi, Zampo, Kamdari, Mapla, Mana-mapa, Kunvar pachhedo, Mukhi-chapti, Kharajat, etc.

In the non-khalsa 1726 villages, there were more than 83,000 tenants-at-will. The land-holders were of different categories such as Girasdars (Talukdars, Bhayats, Bhagdars and Mulgirasias), Barkhalidars, (Jiwaidars, Inamdars), etc., with

varying rights against the State. The Girasdars claimed proprietary rights in the villages, whereas the latter (Barkhalidars) had interest only in the revenue thereof.

In order to level up the rights of the tenants of these non-khalsa villages to those of the khalsa tenants, Government promulgated the Saurashtra Tenants Protection Ordinance No. XXII of 1948. It provided for (1) protection of tenants against arbitrary eviction, (2) a notice of 6 months to a tenant, in case a landlord required lands for personal cultivation, and (3) for restoration of land to tenants in the case of illegal evictions. The Ordinance, in practice, failed to prevent evictions of tenants and exaction of rack-rents. It pleased neither the landlords nor the tenants. In order to remedy the state of affairs, the Saurashtra Zamindars and Tenants Settlements of Land Disputes Ordinance of 1948 was promulgated. It empowered the Mamlatdars to take charge of the crops in disputes and the Deputy Collectors to determine rent in respect of the produce, on the basis of the Anida Settlement. Under this settlement, the Girasdars were asked to take rent not exceeding $1/3$ rd and $1/4$ th shares in Kharif and rabi crops, respectively, and not to evict the tenants. The Girasdars rejected this offer and started satyagraha against the said proposals. As a result of negotiations between the Girasdars and Government, the Saurashtra Protection of Tenants (Amendment) Ordinance, 1948 was passed. It provided that the rent agreed between Girasdars and tenants should be the basis. It also appointed a joint committee of landholders and tenants for settlement of disputes relating to ejection of tenants and recovery of rents.

This measure also failed in its purpose. It was feared that there would be large-scale evictions of tenants. Government, therefore, promulgated an Ordinance called the Saurashtra Temporary Postponement of Evictions Ordinance in 1949. It provided that a landlord could not evict a tenant by mere service of notice under the Ordinance of 1948.

Despite negotiations between the Girasdars and Government, no agreed formula could be devised. Consequently, the Saurashtra Gharkhed Tenancy Settlement and Agricultural Lands Ordinance No. XLI of 1949 was promulgated. It repealed the previous Ordinances and mainly provided as follows:—

- (a) A landholder was allowed to reserve land for personal cultivation according to a prescribed scale. Peta-bhagdars were not eligible for gharkhed.
- (b) A tenant could not be dispossessed except under an order of the Mamlatdar.
- (c) Government fixed the assessment for gharkhed and non-gharkhed lands.
- (d) Government also fixed the basis of rent payable by tenants to landholders.
- (e) It provided protection to tenants in certain respects on the lines of the Bombay legislation.
- (f) It empowered Government to assume management of the estates in the case of disputes between landlords and tenants.

This ordinance was not liked by the landlords and the tenants; because all types of landholders could not get gharkhed lands, and the rents were reduced to the level of the khalsa lands. The tenants were displeased; because evictions were possible in the process of allotment of gharkhed lands. As the situation had become very serious, the Government of India appointed a Committee to investigate the entire land problem of Saurashtra. In the meanwhile, an Ordinance was issued, which provided that no land for gharkhed should be given to the Girasdars in order to prevent eviction of tenants from the lands.

On the basis of the Committee's report the Saurashtra Land Reforms Act, 1951 and the Saurashtra Barkhali Abolition Act, 1951 were passed. Under these Acts, we will see in the Chapter on "The Zamindaris" that the cultivators have been made occupants on payment of occupancy price equal to six times the assessment. In the case of the latter Act, the tenants and the Barkhalidars are recognised as occupants in respect of the lands in their actual possession without any payment to the State except where the holdings are large.

In this background, it is claimed on behalf of the Saurashtra Government that as a result of the implementation of the land reform, the cultivators, who were tenants-at-will have become occupants and, except to a very small extent, in respect of land held originally by Girasdars as gharkhed, there

will be no tenants in the entire State. "The net result of the implementation is that not only the intermediaries are abolished but the tenancy system is also almost abolished."*

The Saurashtra Government has recently enacted the Saurashtra Prohibition of Leases of Agricultural Lands Act, 1953 to ensure that no intermediate interests between Government and cultivators are created in future. The main provisions of the Act are that the existing leases are to be registered by the lessors and that unregistered leases are not to be recognised hereafter. The occupants of the lands are enjoined to cultivate their lands personally and not to lease out the lands in future. Leases are, however, permitted in the case of occupants, who are widows, minors, disabled persons and members of the armed forces. If any lands are leased out in contravention of the provisions of the Act, the occupant is liable to be punished with a fine which may extend to an amount equal to six times the assessment of the land for the first contravention, 12 times the assessment for the second contravention, and 20 times the assessment for further breaches of the law. Abetment of leasing is also made punishable.

The Act however does not apply to

- (a) agricultural land held on lease from Government or local authority;
- (b) agricultural land held on lease for the benefit of an industrial or commercial undertaking;
- (c) any land reserved as gharkhed by or allotted for personal cultivation to a Girasdar or a Barkhalidar under the provisions of the Saurashtra Land Reforms Act, 1951 or the Saurashtra Barkhali Abolition Act, 1951 upto the Akhatrij of Samvat 2012 (1955 A.D.), etc.

In short, the Act insists upon personal cultivation of the lands by occupants and prohibits leases except in the cases mentioned above.

In the context of the tenancy reform enacted by the Saurashtra Government, the observations of Prof. C. N. Vakil, who carried out the Economic Survey of Saurashtra, are very pertinent. He says, "the problem of tenancy in Saurashtra

* B. R. Patel, I.C.S.: *Land Reform Legislation in Saurashtra*, p. 26.

is only nominal and does not affect either any significant number of cultivators or of the total area actually under the plough in the khalsa areas. The average holding of a pure tenant-cultivator comes to 27.4 acres, which is very near the economic holding (32 acres) as against the common known feature elsewhere of a pure tenant struggling for existence with a tiny holding. In the case of the part-tenants, the hired land constitutes less than 25% of their total cultivated area. The part-tenant cultivator's average owned holding, which would have been composed of 33.4 acres, is expanded into 44.2 acres as a result of their cultivating some lands on tenancy. Thus tenancy farming in Saurashtra, besides being limited, does not weaken the structure of farm holdings."*

4. KUTCH.

The Bombay Tenancy and Agricultural Lands Act, 1948 has been applied to Kutch. It is understood that no difficulty is experienced in implementation of the Act.

5. MYSORE.

Before 1952, there was no separate tenancy law in the State, but the landlord tenant relations were governed by the provisions of Chapter VII of the Mysore Land Revenue Code, 1888.

According to the Report of the Mysore Land Revenue Revision Committee (1950), the tenancy conditions are as follows. There are non-occupancy tenants and tenants-at-will. As regards rents, the fixed rent in kind prevails generally in channel areas, while the crop-sharing or '*Vara*' system prevails all over the State. The conditions in Malnad appear to be complicated by the existence of intermediary lessees such as mulgenidars, who hold the land by virtue of a perpetual lease at a fixed rent from the owner, and, who may lease out the land to "*chalgenidars*", who cultivate the land without agreement. The Committee found that the number of tenant cultivators was less than 10% of the number of owner cultivators. Consequently, the consensus of opinion was that as the tenancy problem was not urgent and acute, special legislation was not

* Prof. C. N. Vakil : Economic Survey of Saurashtra, pp. 108-09.

necessary for Mysore for regulating the relations between landlord and tenants. The provisions of the Bombay Tenancy legislation were considered too drastic for application to the landlord-tenant relations in that State. It, therefore, recommended that a simple tenancy legislation on the following lines should serve the purpose quite well:—

- (1) Every lease should be in writing and should be registered.
- (2) The period of lease should not be less than 5 years.
- (3) Sub-letting should be absolutely prohibited except in the case of minors, widows, disabled persons and persons serving in the Defence Forces.
- (4) Lease should be terminated, if the rent is not paid for 2 years or if the tenant commits waste, disfigures the land or leaves it fallow.
- (5) Tenants should have the right of pre-emption to purchase the land under their cultivation.
- (6) Rent, where payable in kind, should be specified in terms of pallas of 100 seers of grain or maunds of 960 tolas of commodity usually sold by weight.
- (7) The maximum rent payable should not exceed one-half of the gross produce.
- (8) Tenancy law enacted on the above lines should apply to the leases entered into after it comes into force.*

The problem of tenancy in the alienated villages was, however, found to be urgent. Government promulgated an Ordinance called the Mysore Alienated Villages (Protection of Tenants and Miscellaneous Provisions) Ordinance, 1950, which repealed the Mysore Alienated Villages Emergency Act, 1949. This Ordinance was repealed by the Mysore Alienated Villages (Protection of Tenants and Miscellaneous Provisions) Act, 1950. It was enacted for providing temporary protection to tenants in alienated villages and for ensuring that such tenants were not deprived of the usual amenities reserved for the use of the village community.

The Act applied to the alienated villages only. Tenants, who were in possession of land uninterruptedly from the 1st July 1946, could not be evicted even in execution of a civil court

* Report of the Mysore Land Revenue Revision Committee, (1950), p. 149.

decree. This protection was to continue so long as the rent or land revenue was tendered by a tenant to the superior holder. The rent was reduced or its recovery suspended, whenever the land revenue was reduced or its recovery suspended. The superior holder could not, without the written approval of the Deputy Commissioner, sell, mortgage, lease or otherwise alienate any reserved land in possession of tenants in such villages. Similarly, he could not grant permission to appropriate the agricultural lands to non-agricultural use without his approval. Further, no person could fell, lop, sell or otherwise dispose of any tree in such villages.

This Act has been replaced by the comprehensive legislation passed by the Mysore Government on the recommendations of the Land Revenue Revision Committee. It is called the Mysore Tenancy Act, 1952. It has been brought into force in 19 districts with effect from 1st August 1952. Its salient features are as follows. It extends to the whole State. The definitions of rent, tenancy, etc., given in the Act, follow the pattern of the Bombay Act.

Period of tenancy	: not less than 5 years.
Maximum rent	: not to exceed one half of crop or its value. Government is empowered to fix a lower rate of the maximum rent by notification in the Gazette. Receipt of rent in terms of service or labour is prohibited.
Sub-letting	: permitted only in the case of persons in the military, naval or air force.

The Bombay Tenancy legislation has been followed in framing the law, because the general scheme of the Act and particularly the provisions relating to the determination of reasonable rent, suspensions and remissions of rent, termination of tenancy, right to dwelling houses, right to trees, abolition of cesses are bodily taken from that Act. However, the minimum tenancy which is for 5 years is not likely to enthruse tenants. The Act is criticized, because the experience

gained in other States in this respect does not seem to have been utilized in framing the legislation.

Thereafter, the Mysore Tenancy (Amendment) Ordinance, 1953 was promulgated on the 2nd November 1953 in order to prevent interference with the possession and enjoyment of lands leased to tenants. The necessary Bill to repeal and replace the said Ordinance has been published in the Gazette dated 5th January 1954.

6. WEST BENGAL.

Bengal was the first State in India, which enacted the tenancy legislation for safeguarding the interests of the tenants in the Zamindari areas, who were deprived of such rights under the Permanent Settlement Regulation, 1793. It was called the Rent Act of 1859. That Act contained for the first time the definition of the right of occupancy and laid down the law between landlord and tenant. The right of occupancy was conferred on a raiyat, who was in continuous possession of the land for 12 years. It thereby obliterated the old distinction between the khudkhasht and paikasht raiyats and made length of possession the criterion of occupancy rights. It divided the settled cultivators into three classes, viz.,

- (1) for those, who held lands on the same rent since 1793, the rent was to remain unaltered for all time to come;
- (2) for those, who held lands on the same rent for 20 years, they were to be presumed to have paid the same rent from 1793, and
- (3) those, who held lands for 12 years, were granted occupancy rights and their rent was not to be raised except in the circumstances stated below.

Secondly, it laid down that the rent must be fair and equitable. It recognised the landlords' right for enhancement of rent on the ground of increase in area, improvements and low rate of rent. Reduction of rent could be claimed for decrease in area or value of produce. It was provided that ejection for non-payment of rent could only be made through Courts.

However, this legislation proved quite ineffective in practice, because as observed by the Rent Commission of 1880, the

Zamindars did their best to prevent the cultivators from acquiring occupancy rights through 12 years' uninterrupted possession by frequent evictions. In order to remedy this defect, another Tenancy Act was passed in 1885. It aimed at extending the occupancy rights to all settled cultivators and to confer some protection and security even on the non-occupancy cultivators. It conferred on the occupancy raiyat a further right to mortgage his holding and to sublet it for a period not exceeding 9 years. In spite of these provisions, the right of transfer conferred on the raiyat was vague and undefined and the landlords exploited the cultivators by charging a heavy transfer-fee called "Salami". This defect was rectified by the Tenancy Acts of 1928 and 1930. In addition, occupancy raiyats were given all rights to trees. But the right to commute rent in kind into cash was abolished on the ground of agitation against the proposal of Sir John Kerr Committee to give occupancy rights to a certain class of bargadars, whose rents could then be commuted to the detriment of many middle class people. The Bengal Tenancy Amendment Act of 1938 abolished transfer fees and the landlords' right to pre-emption in respect of sale of occupancy holdings. Since August 1937, there is a statutory bar to the enhancement of rents for a period of 20 years. Further amendments of the Act in 1939 and 1940 aimed at prevention of the fraudulent practices in the matter of rent and mortgages. In short, the Bengal Tenancy Act of 1885, as subsequently amended, regulates the landlord-tenant relations at present.

The tenancy legislation in Bengal has been criticized on several grounds. To begin with, the Act of 1885 did not protect the tillers of the soil. When the Act X of 1859 was passed, the occupancy rights, which it created, were intended for the actual tillers of the soil. With the passage of time, sub-letting to under-raiyats became more common; but the raiyats retained their occupancy rights and the under-tenants were, to all intents and purposes, tenants-at-will. The vital blunder was to attach occupancy rights not to the land, but to a particular class of tenants, who might be non-agriculturists or might cease to cultivate. From this point of view, the Act of 1928 worsened the position of tenants. It is true that it strengthened the position of cash-paying under-raiyats by giving them occupancy rights;

but it recognised the produce paying tenants only in so far as there were raiyats or under-raiyats paying a fixed quantity of produce. The bargadar or adhiar (share-cropper), did not come within this category. Although most of them financed cultivation themselves by providing seed, plough and cattle, they had no status even as tenants-at-will. Under the barga system, generally half of the produce went to the lessor. It was regarded either as rent or as his own share of produce, whereas the remaining half, which was kept by the cultivator might be regarded either as the wages of his labour or as his share of the produce which remained after the payment of rent.

The Tenancy Act of 1928 declared the bargadars with few exceptions to be labourers. This provision was definitely retrograde. The Floud Commission* found that in 1939-40, one-fifth of the land in Bengal was cultivated for the Zamindars, tenure-holders, raiyats or under-raiyats by people most of whom themselves held land as raiyats or under-raiyats and to all of them, agriculture was (is) an ancestral profession. Many bargadars are the original tenants, who have lost their lands in the civil courts for failure to pay rent or other liabilities. Some belong to the aboriginal tribes like the Santhals, who originally brought land under cultivation, but were gradually bought up by their landlords or creditors and were converted into serfs. These people are improvident and indigent. They are the people, who are tied down to the land of whom Sir Henry Maine says "the status of the slave is always deplorable, the status of the predial slave is often worse than that of the household slave, but the lowest depth of miserable subject is reached, when the person enthralled to the land is at the mercy of peasants whether they exercise their powers singly or in communities." This is the most difficult question in Bengal which results in the commercialization of land i.e. appropriation of the most valuable occupancy right by non-agriculturists.

Like the curate's egg, the barga system is good in parts. When a share of the crop is paid, fluctuations in the cash value of the produce have no application and whether there is a good or bad crop, the quantity of crop paid varies with the outturn. It may be admitted that the system is of great assistance to widows, minors and other people, who are permanently dis-

* Report of the Floud Commission, p. 67.

abled from undertaking cultivation. Despite these few advantages, its glaring disadvantage is found in the fact that the system overrides the principle that the tiller of the soil should have security and protection from rack-renting. Half the produce is an excessive rent. The consensus of the opinion is that this system of cultivation is not economical and, therefore, not in the interests of the community as a whole.

Since the Act of 1928 proved a failure in regard to the bargadars, the Floud Commission suggested that apart from any question of State acquisition or a radical change in the present land revenue system, bargadars under tenure-holders should be made raiyats and those under raiyats the under-raiyats. However, they need not necessarily have the rights of occupancy. Provision might be made so that they could be ejected at the end of a written lease, as in the case of non-occupancy raiyats. The Commission went further and suggested that they might be evicted if they did not cultivate efficiently. The Commission, therefore, recommended the provision of Sir John Kerr's Bill that all bargadars, who supplied plough, cattle and agricultural implements, should be recognised as tenants. If a workable definition could not be framed for this, then it was suggested that all the bargadars should be declared as tenants. It further recommended that the crop-share payable to the landlord should be reduced to $1/3$ rd from $1/2$. In short, the Commission recommended that bargadars should be treated as tenants and given definite rights, though not necessarily all the rights of occupancy raiyats.*

In order to provide for the regulation of certain rights *inter se* of bargadars and owners of land and for the establishment of Bhag-Chas Conciliation Boards for settlement of disputes between them, Government enacted the West Bengal Bargadars Act, 1950. It was applied to the whole of West Bengal and was to remain in force upto 31-3-1953. By an amending Bill of 1953, the period has been extended to the 31st March 1955.

Like the Adhiars of Assam, the bargadars of Bengal are share-croppers. A bargadar has been defined as a person, who under the system known as Adhi-barga or bhag cultivates the

land of another person on the condition of delivering a share of the produce of such land to that other person, but shall not include any such person, (a) who has been expressly admitted to be a tenant by the owner in any document executed by him or in his favour and accepted by him or (b) if he has been held to be a tenant by a Civil Court.

Like the Assam Act (1948), this Act mainly concerns itself with the crop-share payable to the owner and to disputes arising out of it. It, therefore, provides for apportionment of the produce between the owner and the bargadar as follows:-

- (1) If there is an agreement between them as to the division of the entire produce, such mode as agreed may be adopted.
- (2) In the absence of such agreement,
 - (a) from the gross crop, the seedgrains supplied by the owner should be first delivered to him.
 - (b) Out of the balance, the owner and the bargadar are entitled to one-third each subject to the local custom or usage where a bargadar is entitled to a greater share.
 - (c) Out of the remainder, the division may be made in such proportion in a fair and reasonable manner, having regard to their respective contributions to the cost of cultivation including supply of plough cattle, plough and other agricultural implements, manure and cost of protection or irrigation of the land.

The Act declares that a bargadar shall have a prior right to supply of plough-cattle, plough, other agricultural implements, etc.

The bargadar is liable to be evicted for the reasons similar to those set forth in the Assam Act. The Amending Act of 1953 has made provision for payment of compensation to the bargadar in money not exceeding the actual loss sustained by him in consequence of his being prevented from cultivating the land during the period between the termination of, and the restoration to, cultivation of land by him.

So far, this Act follows the pattern of the Assam Act. But it strikes a new pattern, when it provides for establishment of

Bhag Chas Conciliation Boards. Such Boards have been empowered to settle all disputes between owners and bargadars relating to the matters such as

- (1) the division or delivery of produce,
- (2) priority of right to supply plough cattle, agricultural implements, etc.,
- (3) the termination or restoration to cultivation of such land by the bargadars, etc.

In the case of any apprehension that the crops would not be harvested, the Board has been empowered to harvest and thrash the crops.

Despite these provisions, the Act makes it clear that nothing in the Act shall be deemed to create any relationship of landlord and tenant between the owner and a bargadar and that no heritable or transferable rights shall be conferred on the bargadar by any provision of the Act in respect of the lands held by him.

In short, the Act falls short of the expectations of the bargadars and the present trends in agricultural economy. Its main purpose seems to continue the bargadars as crop-sharers for all the time by preventing them to become even tenants with any heritable or transferable rights. Thus, where the need for the tenancy reforms is the greatest, the State Government sticks to its ways and views presumably because of the influence of the Zamindars, which is one of the most powerful factors for the continuance of the Zamindari system in that State.

7. ASSAM.

Assam being adjacent to Bengal is influenced by the Bengal Tenancy laws enacted from time to time. It is noticed that in order to regulate the relations of landlords and tenants in the temporarily settled districts of Assam, the Assam (Temporarily Settled Districts) Tenancy Act, 1935 was enacted. It does not apply to the permanently settled estates as well as certain lands in the temporarily settled estates mentioned in section 2 thereof.

There are two categories of tenants, viz:

- (1) raiyats: tenants holding immediately under a proprietor, landholder or settlement holder, and
- (2) under-raiyats: tenants holding under raiyats.

The category of raiyats is sub-divided into three main classes viz. :—

- (a) privileged raiyats, who are entitled to hold at rates of rent not exceeding the revenue rates;
- (b) occupancy raiyats, who have a right of occupancy in the land held by them; and
- (c) non-occupancy raiyats, who have no right of occupancy. (See statement on the opposite page.)

The statement clearly shows that the tenants enjoy rights of inheritance, but those of transfer are dependent on the written consent of the landlord or certain conditions of transferability. The causes enabling a landlord to evict tenants are generally common. Except the privileged tenants, the right of subletting is not freely enjoyed by the tenants. As regards rent, the conception of service is understandable; but payment of “*bhog*” to the landlord is quite novel. Of course, the fact that it can be commuted into cash is a different matter. But the fact that the “*bhog*” constitutes a form of rent in Assam is a conception quite contrary to the general concept of rents which are in cash and/or kind. Further, the provisions for enhancement of rent in certain circumstances appear peculiar today.

In the Goalpara district, the Goalpara Tenancy Act, 1928 regulates the relations between the landlords and the tenants.

In 1948, Government passed the Assam Adhiars Protection and Regulation Act with a view to protecting tenants of agricultural lands paying rent in kind. The Act defines an ‘adhiar’ as a person, who under the system generally known as adhi (whether Guchi-adhi or Guti-adhi), barga, chuki, bhag or chukni cultivates the land of another person, on the condition of delivering a share or quantity of the produce of such land to that person, who is called a landlord.

The Act affirms the Adhiar’s right to occupy and cultivate the land or to let it out for cultivation to some other person except under certain circumstances. Generally, he is protected from eviction by the landlord. If he is illegally evicted, he is entitled to be restored to the possession of the land and compensation realizable from the landlord not exceeding Rs. 200

Category of tenant. (1)	Rent payable. (2)	Rights as to use of land and trees. (3)	Protection from eviction. (4)	Inheritance. (5)	Right of transfer. (6)	Right of sub-letting (7)	Remarks. (8)
(1) Privileged raiyats ...	Rent not exceeding the revenue rate or bhog right to plant articles of food required by custom to be trees, etc. offered to a deity.)	Free use and enjoyment of land and trees, etc.	Could not be evicted without a decree of special court (revenue lands until for cultivation)	Heritable as other immovable property.	Unrestricted right of transfer subject to consent of landlord or notice in some cases.	Yes to person to whom the land could be validly transferred.	Voluntary rights of surrender and abandonment exist in all categories of tenants
(2) Occupancy raiyats ...	At fair and equitable rates. Rent is not to be enhanced during the first 15 years and then not exceeding 4 annas in a rupee of rent. The rent can be enhanced on the ground of improvement made by the landlord at fair and equitable rates.	do.	do.	do.	No right without the consent in writing of same to the landlord except conferred by a co-sharer or the legal heir.	No right if consent is not conferred by the landlord.	
(3) Non-occupancy raiyats. Rent agreed between landlord and tenant. Rent cannot be enhanced without a written agreement.			do. with additional conditions.	do.	Not transferable without the consent in writing of the landlord.	do.	
(4) Under raiyats ...	do. do.		do.	do.	As in the case of occupancy raiyats.	No right.	

in any individual case. However, he is liable to be evicted on the following grounds:—

- (1) when land is bona fide required by the landlord for residential, horti-cultural or piscicultural or poultry farming, etc.,
- (2) when an Adhiar has used land in a manner, which renders the land unfit for agriculture;
- (3) when an Adhiar has failed to deliver the share of produce due to a landlord; or
- (4) when he has kept the land fallow for one year or sublets it to others.

The Adhiar is entitled to be restored to the possession of land, if the landlord does not cultivate the land or utilize the same for the purpose mentioned in ground (1) above or sublets it to others within one year from the date of getting possession.

The rate of rent is to be fixed on the basis of the produce of the land. It is subject to the maxima given below:

(1) From the gross crop, the seedgrains if any, given by a landlord or a person under whom an Adhiar holds lands shall be returned to him.

(2) Of the remaining crop, the division is to be as under:—

- (a) where a landlord supplies plough-cattle and cultivation is done with their help, $\frac{1}{3}$ rd share, and
- (b) where he does not supply plough-cattle, $\frac{1}{4}$ th share.

This is subject to the condition that when the share of crop fixed by contract is less than the above maxima, the Adhiar has to pay the quantity as fixed by the contract.

8. BIHAR

In Bihar, there are three tenancy laws, viz., (1) the Bihar Tenancy Act, 1885, (2) the Chota Nagpur Tenancy Act, 1908 and (3) the Santal Parganas Tenancy (Supplementary Provisions) Act, 1949.

Like Orissa, the Bengal Tenancy Act 1885, is applicable to this State. It is called the Bihar Tenancy Act VIII of 1885. As the provisions of the Act have been discussed in the section relating to Bengal above, they are not repeated here. Despite this

fact, certain measures for the amelioration of the conditions of the peasants were introduced after the assumption of office by the Congress in 1937. The Bihar Tenancy (Amendment) Acts of 1937 and 1938 cancelled all enhancements of rents made during the years 1911-1936. Rents were reduced by 25% generally in proportion to the fall in prices in the same period. There was a provision for the total or partial remission of rents where the soil had deteriorated in consequence of sand deposits or other causes. The Act of 1938 went further and abolished the method of recovering rents in kind, exempted rent enhancement during the next 15 years, withdrew the Zamindar's right to claim damages against rent arrears, reduced the rate of interest on such rent arrears to 6½% and conferred hereditary rights on such tenants as had occupied lands for twelve years and provided against their eviction.

Thereafter, the Bihar Tenancy (Amendment) Acts, 1946, 1947 and 1948 have been passed. These laws have amended the Bihar Tenancy Act VIII of 1885 (The Bengal Tenancy Act VIII of 1885) in favour of the cultivators. The Amendment Act XIII of 1946 inserted a new section 178 C which provides that where rent in respect of an occupancy holding is payable in kind by division of produce, the landlord shall not be entitled to a share in the straw or *bhoosa* as rent out of the produce of that holding. These provisions were made applicable to any suits or appeals pending for recovery of arrears or rent on the date the Act came into force.

The Amendment Act XIV of 1946 amended section 40 of the Act VIII of 1885 relating to the commutation of rent payable in kind by an occupancy tenant. It provides that the officer should determine the commuted value, having regard to the average value of rent actually received by the landlord during the five years before the first day of Asin 1347 Fasli.

The Amending Act XXIII of 1947 has amended several sections of the Tenancy Act VIII of 1885. The main changes in the Act are briefly stated here. To begin with, one new section 21-A is inserted regarding the settlement of the bakasht lands. The term "bakasht land" means any land other than the proprietor's private land as defined in section 120 of the Act VIII of 1885, which is for the time being in the cultivating possession

of a proprietor or tenure holder. It provides that every person whether he is a settled raiyat of a village or not is entitled to the right of occupancy in all land held by him as a raiyat. But the raiyat shall not have such rights in any bakasht land settled with him by a proprietor or tenure-holder, whose total holding does not exceed 40 acres, unless the settlement is made by a registered document. Certain restrictions have been placed on the proprietor or tenure holder in settling his bakasht land. For example, he has to give preference to a resident of a village, cannot charge rent more than the prevailing rate, cannot charge salami or premium, etc. In the event of his accepting any monetary consideration, the Act provides penalty for illegal exaction. The new section 88-A relates to the division of tenure or holding and distribution of rent. When a portion of a tenure or holding of a tenure holder or occupancy raiyat or a raiyat holding at a fixed rate is transferred by sale, exchange or gift, the transferor and the transferee may divide the tenure or holding or distribute the rent payable in respect thereof by agreement. Such division or distribution is to be binding on the landlord from the date of service of the notice on the landlord.

The Bihar Tenancy (Amendment) Act 1950, is passed the Bihar Tenancy (Amendment) Act 1940, the Bihar Tenancy (Amendment) Act, 1941 and the Bihar Tenancy (Amendment) Act 1944. It has come into force from 2nd April 1948. It provides for appeals against certain orders passed under the Act.

The Bihar Tenancy (Amendment) Act 1950, is passed with the object of giving to tenants unrestricted rights in trees standing on their holdings on the analogy of the rights enjoyed by the tenants of Chota Nagpur Division. In short, the Act of 1885 has been amended from time to time in order to meet immediate issues.

The Bihar Tenancy Act, 1885, as discussed above, applies to areas excluding the Chota Nagpur Division and the Santal Parganas of the Bihar State. Those two areas are excluded from the operation of the Act of 1885; because they have got peculiar problems of tenancy on account of the aboriginal and scheduled caste population. For the Chota Nagpur division, a special Act called the Chota Nagpur Tenancy Act, 1908 regulates

the landlord-tenant relations; whereas the Santal Parganas Tenancy (Supplementary Provisions) Act, 1949, as amended in 1951, governs such relations in the Santal Parganas. Unlike the rights of occupancy raiyats under the Bihar Tenancy Act, in Chota Nagpur and Santal Parganas, the right of transfer by aboriginal and scheduled caste raiyats is restricted so as to prevent their lands from passing into the hands of the shaukars. There are certain special classes of occupancy raiyats, whose rents are fixed in perpetuity. But their number is very very small. The rent of an occupancy raiyat in Bihar can be enhanced through a Court on account of a rise in the average local prices of staple food-grain crops, increase in productive powers of land by any improvement effected by the landlord or by fluvial action. An increase in the rents on account of rise in the prices of staple food crops can take place only once in 15 years under the Bihar Tenancy Act. Similar provisions exist in the Chota Nagpur Tenancy Act, also. In Santal Parganas, the rents can be revised only during certificate and settlement.

Thus, there are three distinct tenancy laws for the whole Bihar State. Special tenancy laws for Chota Nagpur and Santal Parganas have been passed to protect the rights of the aboriginal and the scheduled castes inhabiting these areas. The State Government should take steps now for enacting a consolidated tenancy legislation for the whole State of Bihar.

9. ORISSA

In Orissa, the landlord-tenant relations are governed by the Orissa Tenancy Act, 1913. It is called the Bihar and Orissa Act II of 1913. It appears from the Schedule I of the Act that several Acts and Regulations of Bengal such as the Bengal Rent Act, 1859, the Bengal Tenancy Act, 1885, the Bengal Rent Act, 1862, the Bengal Tenancy (Amendment) Acts of 1898 and 1907, etc., regulated the relations of landlord and tenants before the enactment of Act II of 1913. This was natural because Orissa originally formed part of Bengal.

The Act recognises four categories of the tenants as follows:—

- (1) tenure-holders including under tenure-holders,
- (2) raiyats,
- (3) under-raiyats i.e. tenants holding immediately or mediately under raiyats and
- (4) chandnadars* and the following classes of raiyats:—
 - (a) raiyats holding at fixed rates i.e. holding either at a rent fixed in perpetuity or at a rate of rent fixed in perpetuity;
 - (b) occupancy raiyats i.e. raiyats having a right of occupancy in land held by them,
 - (c) non-occupancy raiyats: raiyats having no such right of occupancy.

Thus, the tenants are tenure-holders or raiyats and the persons holding through them. A tenure-holder has been defined as a person, who has acquired from a proprietor or from another tenure-holder, a right to hold land for the purpose of collecting rents or bringing it under cultivation by establishing tenants on it.

The term 'raiyyat' means primarily a person, who has acquired a right to hold land for the purpose of cultivating it by himself or by members of his family or by hired servants. Even bazyaf-tidars are treated as tenure-holders under the Act. The bazyaf-tidars are those persons holding lands, the title to hold which upon special terms was declared invalid by the Cuttuck Land Revenue Regulation, 1805, the Bengal Land Revenue Assessment (Resumed Lands) Regulations, 1819, etc., and which have been assessed in the course of a settlement of land revenue at a rent fixed for the term of that settlement.

These categories of tenants have different rights and responsibilities. In order to have a comparative idea about the position of these tenants, their rights and responsibilities are tabulated below:—

1. A Chandnadar means a person holding land which has been recorded as chandna in the course of the settlement of land revenue and for which a rent has been fixed for that settlement.

Category of Tenants.	Rents payable and limit of enhancement.	Right to use land and trees.	Protection from eviction.	Inheritance	Right of transfer.	Right of subletting
(1) Tenure-holders	(a) In permanently settled areas, it can be enhanced in certain cases only. (b) Rent once enhanced may not be altered for 15 years. do.	Yes.	Permanent holder not to be ejected.	Right recognised on payment to the landlord a fee of Rs. 2/-.		Division of tenancy not binding on landlord without his consent.
(2) Raiyats holding at fixed rates.		Yes.	Liable to be ejected in the event of a breach of any condition imposed under the Act.	do.		do.
(3) Occupancy tenants	Fair and equitable rent. Money rent can be enhanced by contract only. The court can enhance it on account of rise in prices, improvements by landlords, increase in productive powers due to fluvial action, etc. Rents can be reduced on account of permanent deterioration of the soil by deposit of sand, or fall in prices of staple food crops. Rents payable in kind can be commuted in cash rents.	Free use of land. Right to plant trees, to enjoy the flowers, fruits, to fell & dispose of timber.	Eviction in the case of destructive use of land or breach of any condition under the Act.	Yes, like other immovable property.	Transferable by sale, exchange, gift, etc., without landlord's consent and without payment of fee.	do.
(4) Non-occupancy tenants.	Rent agreed upon between the tenant and the landlord. Rent not to be enhanced except by registered agreement generally.		Eviction on failure to pay rent, destructive use of land, breach of conditions under the Act, or refusal to agree to enhancement.			do.
5 Under raiyats	Rent cannot be enhanced by more than 50% in the case of a registered lease or 25% in other cases.		Eviction on expiration of the term of the written lease.			

The general provisions about rent are that the rents are either money-rents or produce-rents. In the case of lands held by a tenure-holder or raiyat in permanently settled areas, the rent of which has not changed, the presumption is that it is not to be changed except on the ground of alteration in the area of the tenure or holding. Every tenant, however, is entitled to alteration of rent in respect of alteration in area. The money rent is payable in two instalments. Besides, in the case of arrears of money-rent, a simple interest at 6% is chargeable.

In the case of the produce-rents, a detailed procedure for estimating the same has been prescribed.

The Act provides for improvements, which could be made by certain categories of tenants.

On the whole, the Act follows the pattern of the Bengal Tenancy Act.

In 1948, the Orissa Tenants' Protection Act was enacted for protecting the tenants' rights. In practice, however, it led to the large-scale eviction of crop-sharers, who were even deprived of cultivation. The Act being a temporary measure was being extended from year to year. The result was that the condition of the crop-sharers worsened and the cultivation suffered. Consequently, the Orissa Government Lands Bar to Acquisition of the Right of Occupancy Act, 1950 has been passed. It applies to the entire State. It provides that a right of occupancy shall not accrue in any land reclaimed at the cost of the State or acquired under the Land Acquisition Act or any other law relating to acquisition of land unless the right is specifically conferred.

Further, the Orissa Share-Croppers Protection Act, 1953 has been passed with a view to providing certain rights for the share-croppers and for the establishment of the Bhagchas Commission and appellate boards for investigating into the genuineness of the share-croppers in order to give them certain rights in land under their cultivation and for the settlement of disputes relating to matters between share-croppers and the owners of lands in the State. It came into force on the date the Orissa Tenants' Protection Act, 1948 ceased to operate.

The Act defines a 'share-cropper' as a person or any member of a joint family, who under the term generally known as

Bhag, Sanja, Kata, Bhogel Chhidol, etc., cultivates the land of another person on condition of delivering a share of the produce of such land to that person and includes a person who cultivates land on certain contracts for delivering a share either in cash or kind to that person.

The Act lays down the principles for apportioning the produce of the land between the share-cropper and the owner. The share-cropper is entitled to two-thirds of the produce and the balance of the one third is to go to the owner. But if the share-cropper is entitled to a greater share under a written contract, or under local custom or usages, he will get a greater share and not the two-third share. The owner has to bear the cost of carrying the share of his produce to his house. The harvesting of the produce is not to be delayed or held in abeyance. Further, his right is not affected by the change of ownership of land.

The important provision in the Act is about the restoration of an evicted share-cropper. Such a person who has been evicted after the 15th August 1947 is given a right to apply to the Bhagehas Commission of the area for consideration of his case. The Commission is to decide the matter after holding a formal inquiry.

The grounds for eviction of a share-cropper by an owner are as follows:—

The land is required for personal cultivation for maintenance of his family. But the Commission's order will have to be first obtained. But if such land is not cultivated personally by the owner within one year from the termination of the tenancy or is allowed to be cultivated by another crop-sharer within a period of 5 years from that date, the original crop-sharer is entitled to be restored to the cultivation of that land.

The Act provides for the establishment of the Bhagehas Commission and the constitution of District Appellate Boards. The Commission is to have as Chairman an official appointed by Government, three members elected by the share-croppers and two members elected by the owners. The Commission so constituted has to prepare a record of all the crop-sharers of that area and to decide all disputes between share-croppers and owners.

In short, the legislation seeks to afford protection to the share-croppers from eviction and provides for conferment of the tenancy rights. It also safeguards the just rights of the poor and middle peasants. This is in a refreshing contrast to the laws of Bengal and Assam, which specifically provide that the share-croppers shall not acquire tenancy rights in respect of the lands they cultivate.

10. UTTAR PRADESH.

In Uttar Pradesh, the necessity for regulating the relations of landlords and tenants was recognised even before the introduction of the Permanent Settlement in 1795.* It is really strange that effective protection was not given to tenants until the Congress Government passed the United Provinces Tenancy Act in 1939, nearly one hundred and fifty years afterwards.

Before this Act of 1939 was enacted, there were different Acts for different parts of the State. In Agra, there were two Acts, viz., the Agra Provinces Rent Act of 1881 and the Agra Tenancy Act of 1901. The former extended the provisions of the Bengal Rent Act of 1859. It conferred occupancy rights on tenants with 12 years' possession. The latter Act relaxed these provisions and provided for accrual of occupancy right in the case of a break of less than 7 years or a lease of the same period. This Act was amended by the Agra Tenancy Act of 1926, which created two more classes of tenants. One of them was called the "statutory tenant". The expression covered cultivators, who were tenants at the commencement of that Act but, who did not belong to any of the following categories of tenants:

- (1) tenure holders,
- (2) raiyats at fixed rate,
- (3) occupancy tenants, and
- (4) ex-proprietary tenants.

They were truly speaking non-occupancy tenants. They were given life-tenures in return for considerable extension of the "Sir" (home farm) rights of the landlords.

1. Report of the U. P. Zamindari Abolition Committee, Vol. I, p. 154.

In Oudh, the occupancy right was in the initial stage limited under the Act of 1886 to tenants, who having once enjoyed proprietary right, had subsequently lost it. Later on, it was extended to ex-proprietors whose proprietary rights were transferred by sale or execution. The Oudh Rent Act of 1921 conferred life-tenancy on non-occupancy tenants on the same conditions. The Agra Tenancy Act of 1926 borrowed bodily many provisions of the Oudh Rent Act of 1921.

These diverse laws were consolidated by the Congress Government in 1939 by passing the United Provinces Tenancy Act. The Act recognises the following categories of tenants:—

- (a) permanent tenure-holders,
- (b) fixed rate tenants,
- (c) tenants holding on special terms in Oudh,
- (d) exproprietary tenants,
- (e) occupancy tenants,
- (f) hereditary tenants, and
- (g) non-occupancy tenants.

The permanent tenure-holders were those persons,

- (i) who held permanent and transferable interest in land;
- (ii) who were intermediate between the landlord and occupants;
- (iii) from the time of the permanent settlement,
- (iv) at the same rate of rent,
- (v) in Agra or in any permanently settled area.

A permanent tenure-holder was classed as tenant, but he possessed the characteristics of an under-proprietor. He had a permanent, heritable and transferable right in land, which he held as an intermediary between the landlord and the occupants at a rate of rent fixed in perpetuity. His rights to hold and manage the land and receive rents and profits thereof were unlimited. He had the right to grant leases, make improvements, use lands for any agricultural or non-agricultural purpose. He could plant groves without becoming a grove-holder and acquired khudkasht right in land under his personal cultivation.

His interest devolved according to the personal law. He could not be ejected from the holding and the landlord had no

right of re-entry upon his land. His rent was fixed in perpetuity.

Fixed rate tenants.

The status of a fixed rate tenant could be well understood by a contrast with that of the permanent tenure-holder. His position was not that of an intermediary between the proprietor and an occupant of land. Consequently, although he had an unlimited right to lease land, the cultivator holding under him was a sub-tenant and not a tenant. This was a very important distinction. His rent was liable to enhancement on the ground that the area of his holding had decreased by diluvion, encroachment, etc. His rent could be suspended or remitted on account of agricultural calamity. Except in one material particular, his rights were similar to those of a permanent holder.

The tenants holding on special terms in Oudh were old occupants of the soil or proprietors, only some of whom were recorded as under-proprietors. Their rights and liabilities were the same as those of occupancy tenants in Avadh with the addition of certain special privileges, which they enjoyed by virtue of the fact that they were previously proprietors of the land. Their interest was heritable but not transferable.

Expropriatory tenants

Where a landlord by voluntary alienation (other than by gift or exchange) or by operation of law (by foreclosure or sale in execution of a decree) transferred a whole or part of his share in a mahal, he became an expropriatory tenant of (i) Sir land and (ii) such other portion of the khudkasht, as had been in his cultivation for 3 years. Such rights accrued in whole or part of the mahal so transferred by the landlord. He held the land at a rent less by 2 annas in a rupee than the occupancy rate. His interest in the land was heritable but not transferable.

Occupancy tenants

There were restrictions on conferment or acquisition of occupancy rights. Under the Agra Tenancy Act of 1901, occupancy rights could be acquired by a tenant other than a lessee holding under a written lease for a definite term and not less than seven years or a thekedar or a sub-tenant by continuous

possession for a period of 12 years. The right of occupancy, however, could not be conferred by a landlord. Under the Agra Act of 1926, occupancy rights could be conferred by the landlords, and tenants of Government estates other than nazul lands (except in Bundelkhand) were also given occupancy rights. Grantees of resumable rent-free grants also acquired occupancy rights by continuous possession of 12 years, if their holding was resumed by the landlord.

However, in Avadh, occupancy rights were originally created in favour of proprietors, who had lost their proprietary interest by the inclusion of their villages in talukas and, who were not entitled to under-proprietary rights. Under subsequent enactment, occupancy rights could also be acquired by tenants either by prescription or conferment by the landlord. But under the U.P. Tenancy Act, 1939, such rights could not be created. All tenants other than fixed rate and ex-proprietary tenants, who had acquired occupancy rights under the previous law, were occupancy tenants. In view of the difference in the origin of the occupancy rights in Avadh and Agra, the interest of an occupancy tenant in Avadh devolved according to the personal law; whereas in Agra, it devolved according to the succession prescribed in the U.P. Tenancy Act, 1939.

Hereditary Tenants

This category of the tenants was first created by the Act, 1939, which conferred such rights on the following persons:—

- (a) a person, who at the commencement of the Act was a tenant other than a permanent tenure-holder, a fixed rate tenant, a tenant holding on special terms in Avadh, an exproprietary tenant, an occupancy tenant, etc.;
- (b) every person, who had been after the commencement of the Act, admitted as a tenant otherwise than as a tenant of Sir or sub-tenant;
- (c) tenants of lands, which had ceased to be Sir and other persons, who acquired hereditary rights;
- (d) grove-holders acquired hereditary rights on lands ceasing to be a grove;
- (e) trespassers acquired such rights after expiration of the period of limitation for ejectment.

But such rights did not accrue in the following categories of lands:—

- (a) grove land, singhara land or pasture land,
- (b) bed of river,
- (c) lands within cantonment, or municipal limits, canal boundaries, etc.,
- (d) land held for a public purpose or a work of public utility,
- (e) tracts of shifting and unstable cultivation, and
- (f) tenants holding 5 acres or less land in tea-gardens.

Non-occupancy tenants

This category included all other tenants and such persons as (i) tenants of Sir, sub-tenants or tenants of land in which hereditary rights could not be acquired. The rights of these tenants were temporary and unstable. So long as they were not ejected, their interests were heritable according to the table of succession given in the Act. They had a right to sub-let land for only one year at a time with an interval of one year. They could not make any improvement in land without the written consent of the landholder. However, their rights regarding abatement and enhancement of rent and conditions for ejection and planting of groves were similar to those of hereditary tenants. He could be ejected on the ground that he was a tenant holding from year to year under a lease.

The lands held by those tenants in 1945-46 were as under:

	Area in thousand acres.		
(a) permanent tenure-holders	2
(b) fixed rate tenants	711
(c) tenants holding on special terms in Oudh	8
(d) ex-proprietary tenants	826
(e) occupancy tenants	12,297
(f) hereditary tenants	16,443
(g) non-occupancy tenants	264

From the foregoing survey of the tenants, it is clear that the tenancy problem in the U. P. had been very complex and intricate. Not only there were many categories thereof but their rights and responsibilities also differed according to the origin or acquisition of the tenancy rights.

It is necessary to know the general provisions as to rent payable by these tenants. Generally, a tenant is liable to pay such rent as might be agreed upon between him and the landholder. When the rent of an ex-proprietary, an occupancy or a hereditary tenant or of a tenant holding on special terms in Oudh has been agreed upon, fixed, commuted, abated or enhanced according to the previous Acts in Agra and Oudh, it is not liable to enhancement or abatement until or unless

- (a) a period of ten years or any longer period as may have been decreed or ordered, has elapsed,
- (b) the period of the settlement of the local area,
- (c) the area of the tenant's holding has increased by alluvion, decreased by diluvion, encroachment, etc.,
- (d) the productive powers of land have increased by the fluvial action.

The rent of a tenant can be fixed, commuted, abated or enhanced only by

- (a) a registered agreement,
- (b) a decree or order of a Revenue Court,
- (c) a compromise filed in a suit or proceeding.

Where the rent-rates are not determined, the Court is empowered to decide any question relating to commutation, determination, abatement, or enhancement of rent. Provision is made for appointment of rent-rate officers for the purpose.

Section 126 provides for revision of rent and revenue, when there is a sudden rise in prices or in an emergency. Section 126-A, which was enacted in 1947, provides for utilization of land in an emergency.

Illegal transfer or sub-letting is one of the reasons for ejection.

The U.P Agricultural Tenants (Acquisition of Privileges) Act, 1949, has been passed to provide (1) for payment by tenants with a view to facilitating the abolition of the Zamindari, and (2) for reduction of rent and protection from ejection. The following tenants could acquire special privileges on payment to the State Government an amount equal to ten times the annual rent payable in respect of his holding:—

- (a) a tenant holding on special terms in Avadh,
- (b) an exproprietary tenant,
- (c) an occupancy tenant, or
- (d) a hereditary tenant.

The special privileges are as follows:—

- (i) the person is not liable to be ejected; and
- (ii) he has to pay to the landholder half the amount of rent and the remaining half is payable by Government to such a landholder.

This Act of 1949 has been amended by the U.P. Agricultural Tenants (Acquisition of Privileges) (Amendment) and Miscellaneous Provisions Act, 1950. In the Act of 1949, certain categories of tenants such as permanent tenure-holders, permanent lessees in Avadh, grantees at a favourable rate of rent, etc., were left out. They were called occupiers. Even the sub-tenants and unrecorded co-tenants, who were excluded from acquisition of the privileges are included by the amendment.

The Act is further amended by the U.P. Act No. XXIII of 1951 in order to provide for a revival of the declaration for special privileges and restoration of possession.

The State Legislature has passed in 1953 the Jaunsar Bawar Security of Tenure and Land Records Act which provides for the security of tenure and preparation of land records in the Paragana Jaunsar Bawar of Dehra Dun district.

Under the provisions of the U.P. Zamindari Abolition and Land Reforms Act, 1950, only four categories of cultivators are recognised, viz.,

- (1) Bhumidhars,
- (2) Sirdars,
- (3) Asamis, and
- (4) Adhivasis.

The Bhumidhars and Sirdars are occupants and pay land revenue to Government; whereas the latter two pay rent. Thus only two categories of tenants survive after the abolition of the Zamindari. This aspect will be discussed in detail in the chapter on the "Zamindaris".

11. (A) MADRAS

The tenancy legislation in the Madras State has been enacted regionwise, viz. (1) Tanjore (2) Malabar and (3) the remaining part of the Madras State. Since the legislation for (3) above is important, it is taken up first. In Madras, there is evidence of several sporadic attempts having been made at regulating the landlord-tenant relations in the past. They date back to the year 1802, when the Permanent Settlement Regulation was enacted. Subsequently, the Regulations IV and V of 1822, the Rent Recovery Act of 1865, the Estates Land Act I of 1908, the Inam Amendment Act of 1936 and the Madras Estates Land Bill of 1938 aimed at regulating the relations of the landlords and their tenants as regards rent, security of tenure, etc. It is pertinent to note that each legislation, which sought to solve special problems, created new ones. The Act of 1908 was a comprehensive measure, but it resulted in strengthening the hands of the landlords for recovery of rents by making the *cist* the first charge on land and by declaring that a substantial accurate *patta* was sufficient to proceed for the realization of the just dues of the Zamindar or Inamdar. One of its defects was that it failed to distinguish between the ryots, whose rights had been secured permanently at the time of the Permanent Settlement and those who became cultivators by taking up old waste-lands and abandoned lands. The Madras Estates Land Bill, 1938 could not be enacted into law owing to the organized opposition of the landed interests and the unfavourable criticism by the public.

At present, the Madras Estates Land Act of 1908 (which is modelled on the Bengal Tenancy Act of 1885) as amended by the Estates Land Amending Act XVIII of 1936 regulates the relations of landlords and tenants. The Act of 1936 includes inams along with the Zamindaris in the term 'estates' and conferred occupancy rights on the inamdari ryots. If the inamdar could prove in a court of law that he had also the *Kudivaram* right,* which did not come within the definition of the private land, the tenants of such land could acquire occupancy right on payment of one year's rental as compensation to the

* Right to cultivate as distinguished from the *melavaram* right or a right to enjoy revenue from the inam lands.

inamdar. The cultivators have thus been given the right of occupancy in raiyat land (as distinguished from 'Sir' land of a landlord). The enhancement of rent is possible, only if certain specific conditions are fulfilled. Under the Act, the Record of Rights is prepared, and this has settled and defined the tenants' rights.

In 1947, the Madras Estates Land (Reduction of Rent) Act, 1947 was passed with a view to reduction of the rents payable by ryots in estates governed by the Madras Estates Land Act, 1908, which in many cases were substantially higher than the assessment of lands in the ryotwari areas in the neighbourhood. It applies to the 'estates' as defined in section 3(2) of the Madras Estates Land Act, 1908. It aims at levelling down the assessment to that of the ryotwari areas. It provides for appointment of a Special Officer for recommending rates of rent in the estates and special procedure for considering the reduction of rent. After it is so fixed and published in the Gazette, the ryot has to pay that rent. In effecting such a reduction, if any religious, educational or charitable institution loses any portion of its income, Government has to make good the loss. However, the lessees of such institutions are not to have the benefit of such reduction of rent.

This Act has been amended by the Madras Estates Land (Reduction of Rent) Amendment Act, 1952. Under the Act of 1947, the Special Officer has first to determine whether a village is an 'estate' within the meaning of section 3(2) of the Madras Estates Land Act, 1908. Through mistake, the Act has been applied to the inam villages which are not covered by that section. The Civil Courts have in certain cases declared the notification issued under section 3(2) as null and void. In order to correct these mistakes in the application of the Act, it is amended in 1952. This shows that the Act is not properly interpreted and implemented by the Special Officers appointed under the Act.

(B) TANJORE.

In Tanjore, the relations of the landholders vis-a-vis tenants and agricultural labourers deteriorated in recent years owing to eviction of tenants by landowners, low wages and un-

satisfactory living conditions of agricultural labour. This seriously affected production in that district, which is the granary of the South. An Ordinance was, therefore, issued in August 1952 in order to prevent evictions of tenants-at-will (including crop-sharing tenants) and permanent farm servants. In November 1952, the Tanjore Tenants and Pannaiyal* Protection Act, 1952 was passed which repealed the Ordinance.

According to the 1951 census, non-cultivating owners and their dependants and the cultivating labourers and their dependants form 12% and 18%, respectively, for the whole of India; whereas in Madras, they form 16% and 28%, respectively, thus showing an increase of 4% of tenants and 10% of labour over the all India figures. These figures are sufficient to show the enormity of the tenancy problem in Madras. The Act exempts owners holding $6\frac{2}{3}$ acres (called Veli) wet or 20 acres dry. It affects only 11,070 holders in Tanjore, who form 3% of the total number of holders, 44% of wet lands and 50% of tenants and labourers. Under the Act, no tenant, who held lands on lease on 1st December 1951, could be evicted for a period of 5 years. Tenants, who were evicted during the crop year from June 1951, are to be reinstated in preference to any existing tenant on the land. Future tenancy is to be of 5 years. The landowner can resume the land at the end of 5 years by giving a year's notice. The shares of the landowner and the tenant are fixed in the ratio of 60 : 40 out of the gross produce remaining after payment of harvest charges. There is one special provision under which the Divisional Revenue Officer is empowered to decide on the desirability of the conduct of the tenant in regard to good cultivation. On his decision rests the retention or eviction of a tenant.

In short, the legislation is based on the customary practices in the matter of rent, wages and the sharing of the cost of cultivation.

The Act has been severely criticised from various angles as set forth below:—

- (1) It is a hasty legislation.
- (2) It does not provide for remission, fixing of fair rent, compensation for improvements, etc.

* Pannaiyals mean farm cultivators.

- (3) Difficulties are likely to arise from a provision to evict all tenants, who have been let in since December 1951 and re-instate their predecessor, regardless of the merits of the circumstances which brought about the change.
- (4) It has introduced a system of diarchy in the administration of agriculture; because the tenant is made responsible for seed, ploughing, manuring of land, etc., and the landowner for taxes, cesses, etc., and for repairs of irrigation work. Thus, it ousts the landowner from the natural place in the agricultural economy.
- (5) The Varamdar (lessee) and the fixed lease tenant are treated alike.
- (6) It is likely to hit the small middle class mirasdars most.*

Despite these drawbacks, it is a measure, which is sure to protect the interests of tenants particularly in matter of eviction and sharing of the produce of the land.

(C) MALABAR.

As Bengal was the first to enact the tenancy legislation in the permanently settled areas, Malabar was the first to enact such a legislation in the ryotwari areas in India. The tenancy conditions in Malabar attracted the attention of Government long ago in consequence of the agrarian outbreaks of the Moplas in that district, which date back to the year 1836. Thereafter, the problem has been inquired into from time to time and considerable literature is available in the matter. To begin with, the Malabar Compensation for Tenants' Improvements Act I of 1887 was passed with the object of giving full value of improvements made by a tenant on eviction. But as evictions could not be checked, it was re-enacted as the Tenant's Improvement Act I of 1900. But the Act proved a failure. It was thought that the Madras Estates Land Bill, which subsequently became Act of 1908, would cover the tenancy problem of Malabar. But this district was excluded

* The Indian Journal of Agricultural Economics, March 1953. pp. 113, 131-132 and 141-142.

from its purview. Thereafter, the Raghaviah Committee examined the problem comprehensively. On the basis of its recommendations, the Malabar Tenancy Act of 1930 was passed*.

The main features of the Act are as follows:—

(1) The Act excludes leases, which are not purely of an agricultural nature such as those granted for felling timber or for tea or coffee or cinchona estates, those which are for fugitive cultivation or for pepper cultivation exclusively or which are for plantations and those for buildings owned by the landlord with the lands appurtenant thereto.

(2) Qualified fixity of tenure is conferred on all cultivating verumpattamdars. But under the definition of verumppattamdar, such fixity is confined only to holdings which include at least some small extent of wet land. Thus, exclusive dry garden lands or dry land gardens do not get this benefit. This right is subject to regular payment of "fair rent" and also an advance of one year's rent or furnishing of security therefor, if demanded by the landlord.

(3) Cultivating verumpattamdars shall not be bound to pay to the landlord anything more than the "fair rent". Principles for fixing the fair rent for different classes of lands have been laid down. In the case of wet lands, it is two-thirds of the net produce on the land. For gardens, it is based on gross produce. Different rates are specified for trees planted by the landlord and those planted by the tenant.

The fair rent on each holding may be determined by the parties themselves, or either of them may apply to the civil court for this purpose.

(4) All customary verumpattamdars, Kanamdars (cultivators) and kuzhikanamdars, have, after the expiry of the period of tenures, the option to have a renewal of their tenures on payment of the prescribed renewal fee. The scale of renewal fees has been fixed in the Act with reference to the income from the land. The renewal may be arranged by the parties themselves; or the kanamdar and others of his category may apply to the civil court for such a renewal.

* Dr. V. V. Sayana : *The Agrarian Problems of Madras Province* (1949) pp. 271-72

It is to be noted that no time limit has been fixed for the application for renewal by kanamdar, etc. The Janmi (landlord) has no right to move the court by a similar application, when the kanamdar does not choose to renew the tenure on the first occasion after the passing of the Act. He can, however, file a suit for eviction on this ground. But the janmi gets a right to sue him for renewal fees only after the tenure is once at least renewed.

(5) The Act has prescribed the procedure for applying to the Court for the renewal of the kanam and other tenures.

(6) On such renewals by the Court, the customary verumpattamdars or the kanamdars, or the kuzhikanamdars are entitled to hold on the land for another 12 years under the terms of the expiring transactions. In the case of cultivating kuzhikanamdars, they are liable to pay "fair rent" fixed by the court.

(7) The Act has specified the grounds under which the kanamdars, etc., or the cultivating verumpattamdars can be evicted. The main grounds are (i) failure to pay rent by the cultivating verumpattamdar or to pay the advance of rent or furnish security for such rent when demanded; (ii) wilful waste, denial of title of the landlord and when the land is required for the bona fide cultivation of the landlord. In the case of kanamdars, etc., failure to pay annual rents is not one of the grounds for eviction, but failure to apply for renewal is a ground. These provisions apply only to what may be termed as "real kanams". Cases where the kanam amount is more than 49 per cent in South Malabar and more than 60 per cent in North Malabar are excluded from the scope of the Act.

(8) A cultivating kanamdar or a cultivating customary verumpattamdar, who gives up his rights as such tenure holder, may continue to hold on the lands as an ordinary cultivating verumpattamdar.

(9) If an intermediary, who has granted a renewal to his immediate tenant, does not himself choose to get a renewal of his tenure from his immediate landlord, the tenant, who got renewal from such defaulting intermediary, will be unaffected by the default. He will be deemed to have contracted with

the immediate landlord of his landlord. Thus, the tenant who gets a renewal of his tenure is protected, even though his immediate landlord does not choose to do so.

(10) The holder of a decree for evicting a kuzhikanamdar from the holding has the right to apply for the sale of holding. This is a great relief to the decree-holders who may be unable to pay the value of the improvements effected by the tenants.

(11) There are also miscellaneous provisions such as the nature of the tenant's rights (which are heritable and alienable), the right to surrender holdings, the facilities for easy realization of the arrears of rent and renewal fees by making them a first charge on the interests of the defaulters in the land subject to the Government and other statutory charges.*

Even in the working of this Act, defects were noticed. The Madras Government, therefore, appointed the Malabar Tenancy Committee in May 1947. A Special Officer was appointed to examine the recommendations made by that committee. His report has been published in 1950 and makes a very interesting reading. It divides the land tenures of Malabar into (1) Kanam, (2) Kanam-kuzhikanam, (3) Kuzhikanam and (4) Verumpattam. In the case of the Kanam, a substantial interest in land is recognised from a very long time. There is always an advance paid by the Kanamdar to a landlord. It is considered either as security for the payment of rent or as loan. A fixed rent called *michavaram* is to be paid annually. The tenure is normally for 12 years and is renewed on payment of a renewal fee. In fact, the kanam is a hereditary lease of land by the janni (landlord). However, in the North Malabar, the Kanam is a mortgage with possession and not a lease.

In the Kanam-Kuzhikanam, the Kanamdar is allowed to make improvements on the lands and is entitled to claim full cost of improvements effected by him.

The Kuzhikanam is a lease of gardens. If it is of waste lands, the lessee has to reclaim them and plant trees. If it is of gardens already planted with coconuts, the lessee has to look after the existing trees and plant more trees. In either case,

*Report of the Special Officer on the Investigation of Land Tenures on the Recommendations of the Malabar Tenancy Committee, May 1947, pp. 12-13.

the right to make improvements is implied. The tenant gets the cost of such improvements at the time of his eviction. No advance money is to be paid to a janmi. An annual rent is payable. Like the kanam tenure, the lease is renewable at the end of 12 years on payment of a fee to the janmi.

Lastly, the *verumpattam* means an ordinary lease. The cultivating verumpattadar has got the right to a share of the net produce of the land. He cannot be evicted except for some specific grounds such as non-payment of rent, wilful waste, etc. A tenant in South Kanara does not enjoy these privileges. He is only a tenant-at-will.

The Special Officer has re-emphasized the need for legislation to prevent evictions, which are common, despite the Act of 1930. "The tenants, as a class, are agitating for the legislation".

The Special Officer has generally supported the Committee's recommendations regarding fixity of tenure, eviction and relinquishment. Fixity of tenure for all classes of lands including those granted for pepper cultivation has been recommended. One unusual suggestion is made to the effect that "unhusband-like cultivation by the tenant" in the case of the gardens, may be included as one of the grounds for eviction of tenants. On the basis of his recommendations, the Malabar Tenancy Act, 1930 has been amended by the Malabar Tenancy (Amendment) Act, 1951 for giving fixity of tenure, increasing the cultivating tenant's share of produce and for fixation of fair rents for all holdings. It has been applied to Malabar and portions of the South Kanara and Nilgiri districts. The Act aims at enforcement of "3Fs"—Fair rent, Fixed tenure and Free Transferability.

The Act of 1930 is further amended by the Malabar Tenancy Bill 1953 which is passed by the State legislature in January, 1954. It marks another step forward in the policy of the agrarian reforms in Madras, which commenced with the Tanjore Tenants Protection Act of 1952. It is difficult to simplify the very complicated pattern of tenure-holding that has developed in Malabar. But the existence of a large number of tenants and landless workers in Malabar has given an im-

pression of the existence of landlordism in the sense of concentration of ownership. This impression is erroneous as stated by the Madras Chief Minister. According to him, out of 4,50,000 Pattas (holdings with proprietary rights), 4,30,000 Pattas are covered by the assessment of less than Rs. 50/ per annum. About 1,20,000 of these 'landlords' own less than ten cents. There are 9,000 Pattas assessed between Rs. 50 and Rs. 100 and only 6,000 assessed at above Rs. 100. The agrarian discontent seems mainly the result of an increasing pressure on land of growing population.

The Bill, now passed, restricts the landlord's right of bona-fide resumption of cultivation by declaring that no tenant should be liable for eviction, if he or his family has been in occupation for six years. There has been an increase of allowances for expenses of cultivation. Safeguards have been provided for other kinds of evictions. The rent paid by tenants equal to half the assessment in addition to a share of the crop has now been abolished. A limit has been prescribed to any future increase that may be awarded in the process of fixing fair rents to be paid by tenants.

It is a happy coincidence that this measure is passed along with another for protecting the tenants of South Kanara from eviction. It provides that, subject to payment of the current rent, no cultivating tenant in that district can be evicted from his holding for a period of one year. These agrarian reform measures have been enacted piecemeal presumably because the problems in the various areas of the State do not yield to uniform legislative treatment.

SECTION II

12. THE EAST PUNJAB

In the unpartitioned Punjab, the relations between the landlords and tenants were regulated by the Punjab Tenancy Act, 1887. After the partition, this Act continues to apply to the East Punjab. The principal provisions of the Act are summarized below.

According to the definition of the term "rent", it means whatever is payable to a landlord in money, kind or *service* by a tenant on account of use and occupation of land held by him. It may be noted that service constitutes one of the elements of rent payable by a tenant.

There are three categories of tenants recognised by the Act, viz.,

- (1) occupancy tenants,
- (2) tenants for fixed terms, and
- (3) tenants-at-will.

Certain categories of tenants, who have held land for two generations or have occupied lands for a continuous period for some time on payment of their share of Government assessment but without payment of rent or services to the proprietor, are deemed to be occupancy tenants. The Act specifically provides that no tenant shall acquire a right of occupancy by mere lapse of time. Besides the occupancy tenants, there are tenants for a fixed term under contract or a decree. The third category is of the tenants-at-will.

Rents are either in cash or kind (produce). The produce rents can be commuted into cash. They are liable to be enhanced when the land is irrigated or flooded. The cash rent is also liable to be enhanced at certain annas of a rupee of land revenue, which may vary from 2 to 12 annas for different categories of occupancy tenants. Similarly, if the productive powers of the land are decreased by causes beyond the tenants' control, the rent is liable to be proportionately reduced.

As regards ejection, the occupancy tenants are liable to be ejected on the usual grounds of rendering land unfit for cultivation, failure to pay rent or its arrears, etc. The provisions apply to muqurraridars and the tenants for a fixed term. Tenants, who are neither occupancy tenants nor tenants for a fixed term, are liable to be ejected from year to year. Tenants, who are wrongfully dispossessed or ejected from their lands, may institute a suit for recovery of possession, occupancy or compensation.

The rights of occupancy tenants other than muqurraridars are transferable subject to the landlord's right of pre-emption. His rights are heritable also. Rights of other tenants are not liable to attachment or sale without the previous consent in writing of the landlord.

An occupancy tenant alone is competent to sub-let the land for a term not exceeding seven years.

In short, the rights of occupancy can be acquired by tenants whose claims are based on certain historical grounds and not by mere lapse of time. The occupancy tenants (rai-yats) comprise one half of the tenants' class and are protected from arbitrary ejection and enhancement. Their rights are heritable and transferable subject to the consent of the landlord.

In pursuance of the recommendations of the Land Reforms Committee appointed by Government in March 1949, Government decided that the occupancy tenants should cease to exist.

On the basis of the recommendations of the said Committee, two laws called the Punjab Occupancy Tenants (Vesting of Proprietary Rights) Act, 1952 and the Punjab Security of Land Tenures Act, 1953 were passed.

The Punjab Occupancy Tenants (Vesting of Proprietary Rights) Act, 1952.

To take up the first, it is clear that it was enacted with the object of vesting proprietary rights in occupancy tenants and to provide for payment of compensation to the landlords, whose rights are so extinguished. It came into force on the 15th June 1952.

The term "landlord" has been defined to mean a person under whom an occupancy tenant holds land and to whom the

occupancy tenant is or but for a special contract, would be liable to pay rent for that land and includes even a mortgagee. The expression "occupancy tenant" has been defined as a person recorded as occupancy tenant or who acquires the rights of an occupancy tenant. The Act extinguishes all rights of a landlord in the land held under him by an occupancy tenant and vests them free from all encumbrances created by the landlord in the occupancy tenant. For extinguishment of the proprietary rights, a landlord is to be paid compensation as follows:—

Conditions of tenancy

Compensation payable.

(a) Where the rent payable by the occupancy tenant is expressed in terms of land revenue,

(i) an amount equal to 20 times the annual rent (exclusive of land revenue and cesses) plus one anna for every rupee of the annual land revenue if the occupancy right is acquired under the Punjab Tenancy Act, 1887.

(ii) an amount equal to 25 times the annual rent (exclusive of land revenue and cesses) plus 2 annas in a rupee of assessment, in other cases.

(b) Where the rent is not so expressed,

(i) 20 times the annual rent if the rent is paid in cash;

(ii) an amount not exceeding 1/4th share of the market value if the rent is paid by division or appraisement of the produce;

(iii) 20 times the average annual rent but not exceeding 1/4th share of the market value of the land, if the rent is paid partly in cash and partly in kind.

(c) Where the share in the shamilat has been vested in the occupancy tenant,

5 times the amount of land revenue.

The above compensation payable to the landlord is in cash only. If a tenant defaults, the amount is recoverable as an arrear of land revenue.

The Act does not apply to the evacuee property, because there has been no final agreement about it.

In short, only the occupancy tenants are levelled up to the position of proprietors.

The Punjab Security of Land Tenures Act, 1953.

This Act is more comprehensive in character. It came into force on the 15th April 1953. It applies to the whole State except the lands in the registered co-operative garden colonies and the lands held by co-operative farming societies. The terms "small landowner" "permissible area" "standard acre" and "tenant" are peculiar to this Act and, therefore require elucidation. A 'small landowner' means a landowner whose entire land in the State does not exceed the permissible area. The term 'permissible area' means 30 standard acres and where such 30 standard acres on being converted into ordinary acres exceed 60 acres, such 60 acres. The area under an orchard is to be excluded in this computation. In the case of displaced persons, the permissible area is 50 standard acres or 100 ordinary acres. The standard acres are fixed having regard to the quantity of yield and quality of soil of the area. The word "tenant" has the same meaning as given in the Punjab Tenancy Act, 1887 and includes a sub-tenant and self cultivating lessee, but does not include a present holder as defined in the Resettlement Act.

Under the provisions of the Act, a small landowner, who owns land in excess of the permissible area, has to make a reservation of the land upto the limit of the permissible area inclusive of the areas held in a co-operative garden colony under self-cultivation, reserved area excluding the area under a Jhundimar tenant or a tenant who has been in continuous possession for 20 years, etc. Such reservation is to be made within 6 months of the coming into force of the Act. In case, such land which was under self-cultivation, ceases to be reserved subsequently, a tenant, who was formerly on such land and was ejected, is entitled to be restored on application. In

determining the area owned by a landowner, all transfers of land except bona fide sales or mortgages with possession or transfers resulting from inheritance made after the 15th August 1947 and before the commencement of this Act are declared invalid. This provision is made to prevent mala fide transfers before the enforcement of the Act.

As regards the tenants, their rights and responsibilities are tabulated below:—

Minimum period of tenancy	10 years, and if allowed to hold over thereafter, it is deemed as renewed for a further period of 10 years.
Nature of tenancy	heritable during the period of its duration.
Ejection	<p>(1) No tenant is liable to be ejected before 30-4-1954.</p> <p>(2) After 30-4-1954, a tenant can be ejected on the following grounds:—</p> <ul style="list-style-type: none"> (a) failure to pay rent, or its arrears, (b) failure to cultivate land, (c) use rendering land unfit for cultivation, (d) sub-letting of land, (e) for restoring possession of land to a person in the Army, etc., (f) if the area held is in excess of the permissible area.
Restoration	A tenant is entitled to be restored in possession of the land, if he has been ejected from any land in excess of the permissible area on any one of the above grounds after 15-8-1947 and before 15-4-1953. But for such restoration, the tenant has to

	pay such compensation to a landowner as may be determined by the Assistant Collector.
Right to water	A landowner cannot curtail or terminate the supply of canal or use of well water enjoyed by a tenant.
Maximum rent	(a) not to exceed 1/3rd of the crop or value thereof. (b) Where the customary rent is less than such 1/3rd, it is to be deemed the maximum rent.
Right of pre-emption in sale or foreclosure of land	Allowed to tenants of certain duration.
Tenant's right to purchase land	Right is given to tenants in possession of land for 12 years. But they cannot purchase land in excess of the permissible area.

This Act repeals the Punjab Tenants (Security of Tenure) Act, 1950 and its amendment of 1951.

In the ultimate analysis, the objective of the Act is two-fold. It fixes the maximum holding of the landowner to 30/50 standard acres or 60/100 ordinary acres and secures certain rights to tenants as to the maximum rent, use of land, right to use water, period of the tenancy, etc. The controversial provision is about the restoration of tenants, who were evicted after 15-8-47 and before 15-4-1953. It is argued that if a landlord has in the meanwhile put up a water pump and introduced other mechanical methods of agriculture at a heavy cost, still he has to hand over the possession to an evicted tenant. This is alleged to be grossly unfair, although a landowner is to be given compensation by the tenant. This provision has been attacked from another point of view. A tenant with meagre resources in men and materials is not likely to keep up those improved methods of agriculture with the result that the cultivation is likely to suffer. But there is one consolation that in the Punjab, which

is one of the problem States of India, the rights of tenants are secured to the extent possible under the unsettled conditions, economic as well as political.

13. PEPSU.

The tenancy relations in Pepsu follow the pattern of those in the Punjab. Both in the Punjab and Pepsu, the bulk of the owners of lands were also cultivators. The general law and practice of the revenue administration in both the areas were biassed in favour of the land-owning class. The owners of land occupied nearly 2/3rds of the total area of Pepsu. Besides, the principal tenure holders were occupancy tenants, certain special classes of tenants-at-will, lessees and mortgagees. The areas under these six classes were as under:—

Class of tenure holders	Total area in acres	Cultivated area in acres
Owners 	49,29,036	27,60,936
Occupancy tenants	6,37,331	6,21,501
Special tenants ...	77,941	75,971
Tenants-at-will ...	10,46,532	10,11,333
Lessees 	1,45,930	1,29,764
Mortgagees ...	4,09,869	3,84,901

The Venkatachar Committee, which investigated the agrarian problems of Pepsu, has exhaustively dealt with each category of tenants. As regards the occupancy tenants, the relations of landlords and occupancy tenants were severely strained before the formation of Pepsu. Many cultivators were proprietors but under the biswedari (landlord) system, they came to be recorded as occupancy tenants or tenants-at-will in the village records. In order to safeguard the interests of such tenants, the Patiala Ruler issued a Farman-i-Shahi on March 11, 1947 to the effect that in the case of the occupancy tenants holding under section 5 of the Punjab Tenancy Act, one-third of the land should go to the landlord and two-thirds to the tenant; and in the case of such tenants holding under section 6 and 8 of that Act, two-fifths of the land should go to the landlord and three-

fifths to the tenant. The land so apportioned was to be held in full ownership by the landlord and the tenant respectively with common rights in the village commons. The Farman aimed at a rough and ready solution and treated all occupancy holdings alike and ignored variations in rents.

Because of these defects, it was soon discovered that the legislation was ineffective. The Pepsu Government, therefore, amended the Farman and issued a new and much more elaborate Ordinance No. XXIII of 2006 B.K. on the 15th August 1949. The landlord's share was then fixed at 1/4th of the holding and the occupancy tenant's share at 3/4ths. Further, the tenant was given a right to purchase the landlord's share. In the absence of a committee to regulate the partition operations, this legislation also remained ineffective. The ordinance was, therefore, amended in 1950 which dropped the proposal of a partition committee and Government was empowered to control the partition operations. The limits of 1/4th and 3/4ths of land holdings in the case of the landowners and occupancy tenants could be varied. It provided that a tenant, who paid to a landowner nothing more than land revenue and the rates and cesses thereon, he was entitled to the entire holding, etc. The purchase price of the landlord's share was fixed at 100 times the land revenue. Further, occupancy tenants, who had been ejected during the seven years preceding the 11th March 1947 were permitted, under certain conditions, to deposit compensation for the landlord's share and to obtain proprietary rights over their holdings. The Ordinance has been implemented fully where the problem of occupancy tenants was not serious but in the Bhatinda district, the magnitude and intensity of the problem was worst. The physical partition of a holding between the landlord and the occupancy tenants was an extremely cumbersome procedure liable to be unfair to the parties and to encourage corruption. The Venkatachar Committee, therefore, recommended that the provisions of the Punjab Occupancy Tenants (Vesting of Proprietary Rights) Act, 1951 should be followed and those tenants should be made proprietors on payment of compensation to the landlords.

The problem of the *special tenants* was found in the former Faridkot, Kapurthala, and Malerkotla States. Those tenants

paid rents in cash and were not liable to ejectment like the tenants-at-will.

There were special tenants in Faridkot. There were five classes of tenants like Muzarian Shartiya, Muzarian Chakot-dari khas, etc. They were paying rents at different rates. By Notification of April 28, 1951, the Pepsu Government announced that the holders of these tenancies should be deemed to be occupancy tenants under section 8 of the Punjab Tenancy Act, 1887. Like other occupancy tenants, they were also entitled to the proprietary rights. The Committee recommended that the proprietary rights should be conferred on these tenants without payment of compensation.

The *tenants under special tenures* in the Kapurthala State were made occupancy tenants under the Pepsu Government Notification of April 28, 1951 referred to above. The Committee made no special recommendations for these tenants; because Government had already conferred occupancy rights upon them.

The right of *superior landlords* fell into two categories, viz., those held by Rulers and those held by others. As regards the former, the Rulers of Faridkot and Nalagarh had special rights in their villages. By Notification of June 7, 1951, Government announced the conferment of proprietary rights on the inferior land-owners of these States. For abolition of the superior rights, the Committee recommended that the main provisions of the Punjab Abolition of Ala Malkiyat and Talukdari Rights Act, 1951 should be adopted under which the inferior owners were made proprietors on payment of compensation equal to eight times the amount of annual rent or other dues to the landlords.

Lastly, the problem of the tenants-at-will was very complicated. Out of the total area of 63,46,639 acres, 10,46,532 acres were held by tenants-at-will. Like the Punjab, the Pepsu Government was comparatively late in enacting legislation for the protection of the tenants-at-will. The question of tenancy reforms became urgent because of the enactment of the tenancy reforms in other States and the quasi-permanent allotments of lands to displaced owners from the West Pakistan, who stepped

in the shoes of evacuee non-cultivating owners. Government, therefore, enacted the Tenancy (Temporary Provisions) Act, 2008, which aimed primarily at the prevention of the ejections of tenants-at-will pending passing of a more comprehensive legislation.

The Venkatachar Committee suggested (1) that the limit for personal cultivation should be fixed at 100 acres in accordance with the recent legislation in the Punjab; (2) that action should be taken to ensure cultivation of land under the State Fallow Lands Act or any appropriate legislation; (3) that the term of tenants-at-will should be five years; (4) that the tenants, who have cultivated lands continuously under the same landlord from a date prior to May 1, 1940, should be declared as protected tenants and (5) that the maximum rent payable by a tenant should not exceed one third of the crop or the value thereof. In making these recommendations, the Committee has been guided by the provisions of the Punjab and Bombay Tenancy legislation. But even after making these recommendations, the Committee came to the conclusion that "they (recommended measures) do not by themselves offer an adequate solution of the basic weaknesses with which the rural economy has to reckon."*

On the basis of these recommendations, the United Front Government introduced in the winter session of 1952 three Bills, viz.,

- (1) the Pepsu Tenancy (Temporary Powers) Bill, 1952.
- (2) the Pepsu Occupancy Tenants (Vesting of Proprietary Rights) Bill, 1952, and
- (3) the Pepsu Agricultural Lands (Limitation of Ownership) Bill, 1952.

The first Bill sought to minimise the possibilities of ejection of tenants and attempted to fix a maximum rent payable by tenants-at-will. The tenants evicted after 1st May 1947 were made eligible to claim restoration of lands from which they were ejected. But according to a press report, the bill has been dropped, as directed by the President of India.

* Report on the Agrarian Reforms in Pepsu, p. 29.

The other two important Bills sought to settle the age-old agrarian disputes, which had been the main cause of the law and order situation at the harvest time. The Pepsu Occupancy Tenants (Vesting of Proprietary Rights) Act, 1952 provides for abolition of occupancy tenures and the vesting of proprietary rights in the occupancy tenants on payment of compensation to landlords over an area of 2,60,000 acres. It has become law in September 1953. Under the Act, all occupancy tenants who were recorded as such in the Record of Rights or annual records on or after 11th March 1940 have become proprietors, provided that partition proceedings in their case under the Farman-i-Shahi of 1947 or the Pepsu Abolition of Biswedari Ordinance of 1949 have not been finally completed. These tenants will have to pay compensation varying from 12 to 24 times the land revenue (including rates and cesses).

The Pepsu Agricultural Lands (Limitation of Ownership) Bill seeks to fix a ceiling of 300 acres for the ownership and to give non-occupancy tenants the option to buy the land under the plough. The problem of non-occupancy tenants after the partition has assumed alarming proportions. The landlords have been ejecting tenants-at-will from their lands for one reason or the other and are bringing the lands so obtained under self-cultivation by mechanized farming to forestall any attempt by Government to provide security of tenure to tenants. The latest developments regarding this Bill are not known.

On the basis of some of the recommendations of the Venkatachar Committee and the principles embodied in the Punjab Tenancy Legislation, the Pepsu Tenancy and Agricultural Lands Act, 1953 has been enacted. It has been brought into force with effect from the 18th November, 1953.

Its principal provisions are as follows. Two definitions deserve notice. The expression 'banjar land' means land, which has remained uncultivated for a continuous period of not less than 4 years. The term "permissible limit" means 30 standard acres of land or 60 ordinary acres generally.

Every landowner owning land exceeding 30 standard acres is entitled to select and reserve land not exceeding in the aggregate area the permissible limit for personal cultivation. The land so reserved requires to be notified.

No tenancy is to be terminated except under certain circumstances. Exception is however made in respect of the lands reserved for personal cultivation. But even in the excepted cases, no tenant is to be ejected after expiry of 5 years from the commencement of the Act. But ejection is permitted within a period of 5 years in the case of a landowner holding thirty acres or less of land, if he requires land for personal cultivation. If the landowner fails to cultivate land personally within one year from the date of taking over possession, the evicted tenant is entitled to restoration on application.

The maximum rent payable by a tenant is not to exceed 1/3rd of the produce of the land or its value. Provisions have been made for determination of rent, penalty for recovery of excessive rent, bar to eviction of a tenant from a dwelling-house, option to purchase site of a dwelling-house, etc.

A tenant is made eligible to effect improvement in the leased land and, on eviction, provision has been made for payment of compensation to him by his landowner. The tenancy rights are made heritable.

Provision has been made to enable a tenant to acquire proprietary rights in the lands held on lease by him on payment to the landowner 'compensation' at a rate of 90 times the land revenue (including rents and cesses) or Rs. 200/- per acre whichever is less. The compensation is payable in annual instalments not exceeding six. Such a tenant is also eligible to acquire proprietary rights in shamlat lands on payment of compensation equal to a sum of 45 times the land revenue or Rs. 100/- per acre whichever is less. The proprietary rights acquired under the Act are heritable but not transferable by sale, mortgage, gift or otherwise during a period of 6 years from the date of issue of a certificate evidencing acquisition of the proprietary rights.

Government is empowered to acquire the 'banjar' lands on payment to the landowner compensation equal to a sum of 45 times the land revenue or Rs. 100 per acre, whichever is less.

The provisions of the Act do not apply to

- (a) lands owned by or vested in the State Government;
- (b) lands belonging to any religious or charitable institution;

- (c) lands which are granted to any members of the armed forces of the Union for gallantry, and
- (d) private lands leased by Government.

The Act repeals the Pepsu Tenancy (Temporary Provisions) Act, 2008 B.K.

14. DELHI.

The Delhi State has been carved out of the two States of Uttar Pradesh and the Punjab, with the result that it is, ever since its inception as a separate State, governed by the agrarian laws of those two States. Out of the 350 villages in the State, 65 villages lying east of the Jamuna are governed by the Agra Tenancy Act, 1901, while the remaining villages west of the Jamuna are governed by the Punjab Tenancy Act of 1887. Although there have been considerable changes in the tenancy laws of those two States, the agrarian position in the villages in the Delhi State remains unchanged.

In order to unify the agrarian laws of the State, the Government set up a Land Reforms Committee. On the basis of the recommendations, the Delhi Land Reforms Bill, 1953 has been passed by the State Legislature. It contains provisions for the tenancy reform and is considered in the chapter on the Zamindaris.

15. BILASPUR.

The Punjab Tenancy Act of 1887 has been made applicable to this small State—vide Application of Laws Order of 1949.

16. HIMACHAL PRADESH.

Prior to the formation of Himachal Pradesh, different units used to have different tenancy laws. But after the constitution of the State, the Punjab Tenancy Act, 1887 has been applied to the State and governs the landlord-tenant relations. Under section 41 of that Act, a tenant not having a right of occupancy or holding land for a fixed term (i.e. a tenant-at-will) can be ejected at the end of the agricultural year. This provision is not in consonance with the provisions of similar legislation in other States of India. Although the number of landlords in the State were few, they were ejecting their tenants for

fear of future land legislation. In order to provide immediate relief, the Punjab (Security of Tenure) Act, 1950, was applied to the State. It provided that tenants having possession of land for more than four years could not be evicted by the landlords, if the area was in excess of the permissible limit for personal cultivation. However, there were some loopholes in the Act which have been sealed by enacting special laws, viz.,

- (1) the Punjab Tenancy (Himachal Pradesh Amendment) Act, 1952, and
- (2) the Himachal Pradesh Tenants (Right and Restoration) Act, 1952.

Before their enactment, the rents charged by landlords from tenants were very high and tenants other than occupancy tenants and those on fixed terms had no security of tenure. In order to remove these drawbacks, the first Act has been passed, fixing the maximum limit of rent at *1/4th of the crop of the land* and providing that the tenants-at-will shall not be liable to ejection at the will of the landlords, except on the grounds specified in the Act. The second Act has been passed with a view to giving the tenants the right of pre-emption of land sold by a landlord in preference to the co-sharers of landlords. It has also provided for the restoration of lands to all those tenants, who had been ejected after 15th August, 1950.

The Committee has recommended that the occupancy tenants should be given proprietary rights in their tenancies on payment to landlords of compensation varying from 10 times the net annual income for the lowest slab to twice the said income, subject to the maximum of Rs. 10,000 for the highest slab. Thus the financial liability of the reform is to be shouldered by the tenants and not Government.

It is also recommended that the maximum rent payable by a tenant should be raised from *1/4th* to *1/3rd* of the crop. Lastly, security of tenure should be provided to tenants-at-will.

There is no information to ascertain whether these recommendations have been accepted and implemented by that Government.

17. MADHYA PRADESH

Originally, the landlord-tenant relations were regulated by the Central Provinces Tenancy Act, 1898, and its amendments of 1899 and 1917. The said Act was repealed in 1920 by the C.P. Tenancy Act, 1920. That Act with its subsequent modifications governs the tenancy problems in Madhya Pradesh now.

The Act recognises 3 categories of tenants, viz.,

- (1) absolute occupancy tenants,
- (2) occupancy tenants, and
- (3) sub-tenants.

(1) *Absolute occupancy tenants:*

Under the Act, an 'absolute occupancy tenant' is defined as a person who is the tenant of any holding and is recorded in the Record of Rights made before the first day of January 1884, as an absolute occupancy raiyat, or in equivalent terms. His rights in the land are heritable and transferable without reference to his landlord. The right of transfer is, however, specified. Such a tenant may transfer any right in his holding to a co-tenant or any person, may mortgage such a right by a simple mortgage or by a mortgage by a conditional sale, and may sub-let any right in his holding for a period not exceeding five years. In respect of transfer in any other cases, the landlord has a right of pre-emption and a detailed procedure is provided in the Act for the purpose.

Such a tenant cannot be evicted from his holding by the landlord for any cause.

The rent of such tenants is fixed for a period of settlement by the Settlement Officer and the rent so fixed is generally not to be altered during the currency of the settlement.

A very important provision has been inserted by an amending Act of 1940. Government has been empowered by notification to declare such tenants as malik makbuzas on payment to the landlord of an amount equal to ten times the rent of the holding.

(2) *Occupancy Tenants:*

Every tenant who is not an absolute occupancy tenant or a sub-tenant is an occupancy tenant. His right in the holding is heritable and transferable subject to certain conditions:

- (a) he may sublet any right in his holding for a period not exceeding 5 years, or
- (b) he may transfer by sale or otherwise except by a simple mortgage any right in his holding to a sub-tenant or person, who would be eligible to inherit the same, or
- (c) he may transfer by sale any right in his holding to any other person.

In the case of a sale by an occupancy tenant of any right in his holding, the landlord is to have a right of pre-emption. Such a right of pre-emption is given to a co-tenant and his heirs. The rent of such tenants is to be fixed by the Settlement Officer at the time of the settlement and is not to be altered during the currency of the settlement. But such rent may be enhanced during the currency of such settlement,

- (a) by an agreement in writing with the landlord,
- (b) on the application of the landlord on the ground that the rate of rent is below the rate paid by occupancy tenants for lands of similar description with similar advantages in the same village;
- (c) there has been a rise in the local prices of produce since the rent was fixed;
- (d) there has been a permanent increase in the total area in cultivation since the rent was last fixed.

Detailed procedure is laid down for enhancement of rent by agreement or on the landlord's application.

Such tenants are not to be ejected except in execution of a civil court decree obtained by a landlord on the ground that the tenant has diverted the land to non-agricultural purposes. Such ejected tenants are entitled to compensation for improvements made by them.

Like the absolute occupancy tenants, these tenants are eligible to acquire the rights of malik makbuza on payment to the landlord of an amount equal to $12\frac{1}{2}$ times the rent of the holding.

(3) *Sub-tenants:*

A sub-tenant is defined as—

- (a) a person who holds land from a tenant of such land;
- (b) any person,
 - (i) who holds as a tenant land from a malik makbuza or from the holder of a survey member, etc.,
 - (ii) who holds sir land as a tenant.

The tenure of a sub-tenant is to be according to the terms of the agreement between him and the landlord. His right in the holding is heritable. He can be ejected in execution of a decree for recovery of arrears due .

If a sub-tenant applies to a Revenue Officer for declaring him to be an occupancy tenant of such land on the ground that the land is habitually sub-let, the right of the original tenant in the land shall be extinguished. Such a declaration is not to be made in the case of (i) a sub-tenant holding land from a charitable or religious endowment; and (ii) a sub-tenant holding land under a lease made before the 1st November 1939. Land shall not be deemed to be habitually sublet by reason of a lease made before the 1st November 1939.

The Revenue Officer is empowered on his own motion or on an application made by a sub-tenant holding land from a makbuza or holding sir-land from a proprietor, to declare such sub-tenant to be an occupancy tenant on the ground that the land is habitually sub-let and fix the rent payable for the land. But such a declaration is not to be made in the two cases referred to above.

Rent:

As regards general provisions of rent, rent of the holding of an absolute occupancy tenant or an occupancy tenant is a first charge on the holdings and the holdings saleable for arrears.

Rent is payable in instalments according to the terms of contract or local usage.

During the currency of the settlement, the rent payable by an absolute occupancy tenant or an occupancy tenant can be reduced by Government, having regard to changes in general

conditions subsequent to the settlement. Government is also empowered to vary rent during the currency of the settlement, if the holding has increased or decreased. The rent also may be altered in the case of new assessment. It is also to be altered if the holding is diverted to non-agricultural purposes. It is to be remitted or suspended according to the treatment of land revenue in that year. In the case of suits for recovery of arrears of rent, a simple interest not exceeding 6% is leviable.

The holding of an absolute occupancy tenant or an occupancy tenant can be surrendered by giving to the landlord 30 days' notice before the commencement of the agricultural year. But such a surrender is not valid unless it is effected by a registered document. The exchange of the holdings of such tenants is permitted.

According to the amending Act of 1939, if Sir or khudkasht lands are leased as one holding on or after the 1st November 1939, the lessee is to acquire the same right in the Sir-land, as he would in the khudkasht land and the Sir-right in such land shall be extinguished. A tenant other than a sub-tenant has a right to be reinstated if he is illegally ejected.

The Berar Regulation of Agricultural Leases Act passed in 1951 has made lessees holding under the lease, protected tenants. The Act has been amended recently. It affords protection against rack-renting and habitual sub-letting. It provides that land-owners acquiring land by transfer will not be entitled to terminate the leases of protected lessees, whose rights are effective before such transfer.

In order to consolidate all land laws of the State, a Committee was appointed by the State Government. On the basis of the recommendations of that Committee, the Madhya Pradesh Land Revenue Bill (No. 42 of 1953) was introduced in the State Legislature in the autumn session of 1953. The Bill recognises two categories of tenants, viz., (a) ordinary tenant and (b) occupancy tenant. In Chapter XIII of the Bill, a tenant is defined as a person, who holds land from a tenure-holder and who is not an occupancy tenant under section 163 or a protected lessee under the Berar Regulation of Agricultural Leases Act, 1951. An occupancy tenant is defined as a

person, who before the commencement of that Code has been declared as occupancy tenant of a malik makbuza. As the press reports suggest, the Bill has been referred to the Select Committee.

18. MADHYA BHARAT.

Although Madhya Bharat was a jagir-zamindari area, the ryotwari system was predominant even in the jagiri villages. Before the merger, there existed a great variety of rights as enjoyed by the ryotwari tenants in the different covenanting States. In the ryotwari areas, such rights broadly fell into four classes:—

- (1) Pukhta Maurusi or Malkana hak holder, who had heritable as well as unrestricted rights of transferring part or whole of his holding by sale or mortgage and sometimes even by bequest or gift;
- (2) Mamuli Maurusi or Pattedar peasant who enjoyed heritable rights, but whose heritable rights were hedged round by restrictions;
- (3) peasants, who had heritable rights but no rights of transfer; and
- (4) peasants who held leases for their holdings for a fixed period of years and who enjoyed neither heritable nor transferable rights.

The number of the first category was small and it was found in the ryotwari tracts of the Gwalior State. The bulk of the peasants in ryotwari tracts however fell in the second category of cultivators, who were called Pattedars in Indore and Mamuli Maurusi in Gwalior. In Gwalior, he could not transfer his land without permission of Government or the assignee of the village. In Indore, previous permission of the Collector was required for transfer. Transfer was allowed only by sale to another bona fide agriculturist, but this restriction did not apply to holdings in other areas of Madhya Bharat. In most of the smaller States, permission of Government was necessary for such transfers.

The tenants of the third category were found in smaller States like Sitamau, Piploda, Alirajpur, Jhabua and Raigarh. The number of the 4th category of tenants was extremely small.

This was the tenancy position before the merger. After the formation of Madhya Bharat, attempts have been made to rationalize the land revenue and tenancy laws in the ryotwari villages. With this object, the land revenue and tenancy ordinance was promulgated in 1949. It reduced the classes of the ryotwari tenants from four to two. All peasants, who had rights less than those of Mamuli Maurusi or Pattedar peasants were given Pattedari rights. Those, who had formerly Pukhta Maurusi or Malkana Haq were left undisturbed, because they had rights superior to those of the Pattedar tenants. The present policy of Government is to let out all future leases on the Pattedari tenure. No Pukhta Maurusi rights would be allowed to accrue in future. But the Madhya Bharat Revenue Administration and Ryotwari Land Revenue and Tenancy Act, 1950 has not only consolidated the position of the tenants in the ryotwari areas; but has gone a step further and abolished the Pukhta Maurusi tenure and all tenants have been levelled up to the position of Pattedars. It has introduced certain restrictions on transfer of leases to enable more holdings of an economic size being created in future.

The tenants in the Zamindari areas were as under :—

<i>Category.</i>	<i>Rights.</i>
(1) Pukhta Maurusi	heritable and transferable rights.
(2) Mamuli Maurusi	heritable but not transferable rights.
(3) Gair Maurusi (tenants-at-will)	no rights of inheritance or transfer.

A Gair Maurusi tenant acquired the Mamuli Maurusi right after 12 years and the Pukhta Maurusi right after a further period of 12 years. But this process could be accelerated by the Zamindar if he was paid nazarana by the tenant.

In both the Zamindari and Ryotwari areas, peasants could sub-let their lands. A pattedari tenant in the Indore State could sublet his land only for agricultural purposes. In other parts of Madhya Bharat, however, the Mamuli Maurusi or Pattedar peasant could freely sub-let his land on conditions set forth in the sub-lease. In the Zamindari areas, all the three categories

of the tenants could sub-let the lands freely. The sub-tenants were even protected from ejectment. The Madhya Bharat Revenue Administration and Ryotwari Land Revenue and Tenancy Act, 1950 contains chapter VI, which deals with tenancies and sub-tenancies in the integrated State. Before dealing with the provisions, definitions of some terms which are peculiar to this Act are noticed here. A 'pakka tenant' has been defined as a tenant, who has been or whose predecessor-in-interest had been lawfully recorded as a 'Ryot Pattedar', 'Mamuli Maurushi', 'Gair Maurushi', 'Pattedar tenant' and 'Pukhta Manrushi'. An 'ordinary tenant' means a tenant other than a Pakka tenant and does not include a sub-tenant. The 'sub-tenants' are not treated as tenants. Even a "concessional holder", who holds lands on a revenue less than the normal revenue also does not come within the category of tenants.

The Pakka tenant's rent is fixed for the period of settlement and his rights are heritable. He can claim reduction in the amount of revenue or rent only when the holding is diminished or deteriorated. He is entitled to purchase the trees in his holding and to have a rent-free house-site in the village-site. He can exchange his holding for the purpose of consolidation or securing greater convenience in cultivation. His holding can be partitioned only under the order of a Tehsildar. No partition of his holding is permitted if such partition leaves him with land less than 15 acres on the Pakka tenure.

As regards sale, he can sell his land to a bona fide agriculturist with the previous sanction of the Suba, who grants such sanction only when the tenant wants to sell away his entire holding in the paragana or if at least 5 acres of irrigated land or 15 acres of non-irrigated land are left in his possession for the maintenance of himself and his family. But in the matter of purchasers, the priorities are fixed as under:—

- (a) a co-tenant,
- (b) a sub-tenant, who is for more than 2 years in possession of the land being sold,
- (c) a registered co-operative farming society.

Such a tenant is prohibited from sub-letting land for any period except if the tenant is a widow, a minor, a lunatic, or an idiot or is in the Navy, Military or Air Service of the State.

An ordinary tenant is entitled to hold the land let to him according to the terms agreed upon. His holding can be resumed under the order of a Tehsildar, if he contravenes the terms of the tenancy.

A sub-tenant is entitled to hold land let to him according to the terms agreed upon and subject to general conditions regarding cultivation of land, growing grass, etc., embodied in section 55. He can be dispossessed of his holding, if he infringes the general conditions of tenancy or leases out the land of his holding.

If a pakka tenant is improperly dispossessed, he is entitled to be re-instated.

19. RAJASTHAN.

According to the report of the Rajasthan-Madhya Bharat Jagir Enquiry Committee,* there are at present tenancy laws in all the integrating States except Jaisalmer. These enactments are very conservative in nature and they seek at best to give some kind of legal shape or sanction to the prevailing custom or practices, which differ widely from place to place. They do not attempt to introduce any tenancy reform or to secure to the tenants rights, which have been denied to them in the past. However there are two exceptions to this. The tenancy laws were passed by the Jaipur State in 1947 and by the Jodhpur State on the eve of the formation of the Rajasthan Union. They have registered a distinct advance on the previous position of cultivators. The most important right conferred by these enactments is the conferment of the Khatedari or occupancy rights on the Jagir tenants in respect of the lands in their possession at the time of the enforcement of the Acts.

There are various classes of tenants, whose rights in the land under cultivation differ. The principal classes of tenants and their rights and responsibilities have been set out below:—

* Report of the Rajasthan-Madhya Bharat Jagir Enquiry Committee, 1950, Chapter IX.

Class of tenants	Liabilities	Rights of inheritance	Transfer
1. Pattedar Jaipur	Has to pay premium	Full	Full
2. Khatedar Jaipur Bikaner	Mere occupation. He or his ancestors must have brought the land under cultivation.	Full "	Mortgage for 10 year. Nil.
Jodhpur	Mere occupation	"	Transfer to co-tenant or nearest heir.
Pratapgarh	Has to pay nazarana	"	Full
Banswada	.....	"	Mortgage only.
Shahpura	.....	"	-do-
Bundi	.....	"	Transferable with the sanction of the Revenue Minister.
Tonk	.....	Full	Full
3. Bapidar, Jodhpur Udaipur Banswara	Has to pay Premium and get Bapi Patta. do. do.	Full Full Full	Full Full Full
4. Gair Khatedar or Gair Bapidar	Is a mere tenant-at will		

It will appear from the above tabulation that, generally, the right of inheritance is more common and is easily acquired as compared with the right of transfer or alienation. And for acquiring rights of transfer, all these cultivators except the Khatedars of Tonk and Kotah and the Khadamdars and Bapidars of Udaipur have to pay nazarana. For instance, a tenant in Khalsa in Bikaner has to pay a premium equal to 16 times the revenue for acquiring the rights of an occupancy tenant and, even then, his right of transfer is subject to the previous consent of Government. A tenant in Jagirs has no rights of occupancy at all.

Before the abolition of the Jagirs, the question of Khudkasht was hardly of importance and caused little concern

either to the landlord, tenants or the State. The lands, which were not occupied by tenants, were always at the disposal of the landholder. The tenants could be ousted at any time. But the conditions have changed since the tenant is no longer prepared to surrender his holdings at the bidding of the landholder. And the Tenancy laws have given him protection against ejection unless he renders himself liable to ejection by certain specific acts of commission or omission. Furthermore, even the biggest landlords are anxious to have as much land as possible for personal cultivation. This is attributable to the fact that if the Jagirs are liquidated, they might be permitted to retain whatever lands they had under personal cultivation. The growing craze for mechanised farming noticeable among some Jagirdars is to a large extent motivated by this hope.

Apart from these factors, there is another important factor in operation. A landlord, who at present recovers rent in the shape of a share of a produce, finds himself faced with a problem by the introduction of cash rents and reduction of the existing rents. Some of the landlords are likely to be left with insufficient means of maintenance. For these reasons, the problem of khudkasht has assumed a serious aspect particularly in the Bhomichara areas of Torawati, Shekhawati and Udaipurwati in Jaipur. The problem is not difficult to tackle where the land is enough and to spare; but it is serious where the demand for such lands cannot be satisfied without ejecting or dislodging tenants. Section 152 of the Jaipur State Grants Land Tenures Act, 1947 and section 6 of the Marwar Tenancy Act, 1949 throw useful light in the matter. Unlike the Jodhpur Act, the Jaipur Act provides for appropriation of lands for allotment as khudkasht lands, if the area is insufficient. The following categories could be appropriated to make up the quota of the landholder's khudkasht:—

- (1) lands which have been sub-let with certain exceptions,
- (2) lands held by non-agriculturists, and
- (3) lands held by Gair-khatedars.

In June 1949, Government promulgated the Rajasthan Protection of Tenants Ordinance with the object of safeguarding the tenants against unlawful ejection. According to the Ordinance, all tenants, who were in occupation of any land on

the 1st April 1948 and who might have been dispossessed thereafter, were entitled to be reinstated to the holdings.

The Rajpramukh issued an Ordinance in 1951 directing that no landlord should recover or be deemed entitled to recover as rent for any land in the unsettled areas of the State a portion exceeding 1/4th of the gross produce. But the tenants paying less than the said maximum should continue to pay the same as before.*

The Rajasthan Produce Rents (Regulation) Amending Act, 1952 fixes 1/6th of the gross produce as the maximum rent which a landholder can recover from his tenant. The validity of the Act was challenged by certain landlords but the Rajasthan High Court has upheld the validity of fixing rent at 1/6th of the gross produce.

In the scheme of land reform legislation, the Rajasthan State has enacted the Rajasthan Agricultural Rents Control Act, 1952. It seeks to end rack-renting by limiting the cash rents to twice the land revenue assessed on the land and thrice the land revenue in the case of minors, widows and disabled persons in Alwar and Bharatpur districts.

Press report† indicates that the validity of the Act was challenged by the landlords in the State by filing writ petitions under Article 226 of the Constitution. The Division Bench of the Rajasthan High Court has held that the Act violates Article 14 of the Constitution and has prohibited the State Government from enforcing it. The reasons stated are that there is no guiding principle anywhere in the Act to control the application of the Act to particular areas and that section 1(3) gives unfettered and arbitrary power to the State Government to apply it anywhere it liked.

In order to promulgate a uniform tenancy law for the whole State, the Rajasthan Tenancy Bill 1953 has been passed. It classifies tenants into 3 categories, viz., (1) Khatedar (2) Ghair Khatedar and (3) Sub-tenants. The Khatedar's right in his land is to be heritable and transferable; but that of the Ghair Khatedar is only heritable. The sub-tenant's right is

* Agricultural Situation in India, July 1951.

† The *Times of India* dated 16-1-1954.

neither heritable nor transferable. It seeks to regularize laws of ejection, restrict indiscriminate fragmentation of holdings and creation of uneconomic tenancies and prevent sub-letting of land except in certain cases. It further provides for allotment of unoccupied lands to agriculturists and improvement of means of irrigation.

20. AJMER-MERWARA.

During the Moghal period when special privileges were given in lieu of military service, the land tenure had a kind of permanency. During the Maratha period, some kind of land revenue assessment was levied instead of the military service. Under the British rule, however, the entire position was reversed and the cultivators were placed in the category of tenants-at-will.*

In order to safeguard the rights and interests of the impoverished peasantry, and to abolish the 80 year old feudalism in the centrally administered Ajmer and Merwara, the Ajmer-Merwara Tenancy and Land Records Bill 1948 was introduced in the Parliament, which referred it to a Select Committee. That Committee reported in 1949 after scrutiny of all the clauses. It was considered in the Parliament in April 1952. But during the deliberations of the Committee, an Ordinance was promulgated in 1949 for regulating the relations of the landlords (istamrardars) and tenants. When the Bill as emerged from the Select Committee was considered by the Parliament, it was hailed as a "landmark in the history of tenancy reform" and "a charter of economic and social freedom to the peasantry and tenantry" in Ajmer. The Bill was considered as an essential step in the matter of abolishing Zamindaris in the State. It has been modelled on the tenancy legislation of U.P., Madras and Madhya Pradesh.

The main features of the Ajmer Tenancy and Land Records Act 1950 are as follows:

- (a) Subletting is allowed subject to certain restrictions which make the intrusion of money lender difficult, if not impossible, but persons under disability like

* Mukerjee, Dr. Karuna : Land Reforms, p. 57.

females or minors and others are permitted to sublet freely.

- (b) A tenant has been given a right to acquire proprietary right in his holding on payment of reasonable compensation.
- (c) Collection of lags and negs has been abolished.
- (d) Provision for preparation of land records and framing of rent-rates in Istimrari and Jagir areas has been made.
- (e) Provision for an automatic machinery has been made for hearing appeals.
- (f) The appearance of legal practitioners before revenue courts has been restricted.
- (g) No court fee is charged on the first application and a nominal court fee of four annas is charged on second and subsequent applications. But provision has been made for collection of court-fee at a prescribed rate in certain cases.
- (h) A tenant cannot now be
 - (i) ejected from his holding otherwise than in accordance with the provision of the Act;
 - (ii) evicted from his residential house other than a house which is an improvement, merely because he has or has been ejected from his holding in the village; and
 - (iii) compelled to render any service.
- (i) It provides for consolidation of cultivable area, etc.
- (j) In the case of non-occupancy tenants, the rent has been reduced from 1/3rd to 1/5th. In the case of occupancy tenants, it is reduced from 1/4th to 1/6th. It is reduced to 1/8th in the case of ex-proprietary tenants. The Act provides for the proper survey and creation of the land records.

21. VINDHYA PRADESH.

In the year 1948-49, several complaints were received against the Pawaidars to the effect that they were ejecting tenants of "Sir" lands, and harassing them unnecessarily. For

the removal of these complaints, the Vindhya Pradesh Stay of 'Sir' Lands Ejectment Proceedings Ordinance No.XXVI of 1949 was promulgated. Accordingly, all proceedings for the ejectment of tenants from 'Sir' land were stayed till the enforcement of the new Land Revenue and Tenancy Act. On the representation of the Pawaidars, however, this Ordinance was amended by another Ordinance No.XXXIV of 1949, which provided that the previous Ordinance would not apply if the Pawaidar concerned wanted to eject a tenant of any particular Bandh for his personal cultivation. But the Pawaidars abused the concession and ejected many tenants. In order to protect the tenants or sub-tenants of 'Sir' land from such ejectments, the Vindhya Pradesh 'Sir' Lands (Stay of Ejectment Proceedings) Act, 1952 was enacted. It has repealed the previous two Ordinances of 1949. It provides remedies for wrongful ejectment and restoration of possession in certain cases for tenants ejected in virtue of the Ordinance No.XXXIV of 1949.

The Act applies to the whole State. It provides that a tenant or a sub-tenant should not be ejected from the Bandh lands of a Pawaidar or a Jagirdar unless a certificate is obtained from the Deputy Commissioner to that effect that the lands are required for personal cultivation and that the Jagirdar has not let out the lands to any other tenant during the revenue year in which the application is made. If a tenant is unlawfully ejected, possession of the said lands is to be restored to him on application. In such cases of restoration of ejected tenants, a Jagirdar (pawaidar) in unlawful possession of the land has to pay to the tenant or sub-tenant compensation as the Deputy Commissioner may determine.

Recently, the Rewa Land Revenue and Tenancy Code has been applied to the whole State. The Code is progressive and liberal to tenants.

22. BHOPAL.

Before 1952, there was no separate tenancy law in the State; but the landlord-tenant relations were (are) governed by the Bhopal State Land Revenue Act of 1932.

There is only one category of tenants, who are called Shikmis. A Shikmi has been defined as a person, who holds land

from an occupant and is, or but for a contract, would be liable to pay rent for such land to that occupant, but does not include a mortgagee or a person holding that land directly from Government. The term "rent" means whatever is payable to an occupant in money, kind or *service* by a Shikmi for the right to use land.

The Shikmis are to be treated as annual tenants. This tenancy could be terminated by three months' notice on either side. The rent of a Shikmi holding otherwise than under an express agreement could not be enhanced by an occupant without a four months' notice to him (a Shikmi). Such a tenant is liable to be ejected if he fails to vacate land on the termination of his lawful possession or does anything in contravention of his agreement, if any, provided that no ejectment shall take effect before the commencement of the next agricultural year. If any occupant is found sub-letting his land at an excessive rent, the Nazim* has to determine the rent of the Shikmi.†

It will thus appear that in this State, a landlord and a tenant are, respectively, called an occupant and a Shikmi. The Bhopal State Land Revenue Act of 1932 does not provide for the quantum of rent, maximum or minimum, payable to an occupant by a shikmi. It includes *service* also.

However, when the question of the abolition of the Jagirs came up, the position of the tenants became very uncertain. The Jagirdars, who were generally the occupants, ejected or dispossessed sub-tenants from their holdings and thus deprived them of their means of livelihood. In order to stop the mischief, pending the abolition of the Jagirdari system of the State, Government enacted the Bhopal State Sub-tenants Protection Act, 1952. It extends to the whole State and prohibits the ejectment of sub-tenants of jagirdars and alienated lands only. It covers all suits for ejectment of sub-tenants in alienated lands pending on the 1st May 1952. The Act defines a sub-tenant as a person, who holds a parcel of *khudkasht* land from a jagirdar and is, or but for a contract, would be liable to pay rent for such land to that jagirdar. It also provides that a sub-tenant shall not be evicted without an order of a competent court, and

* A Nazim means an Assistant Collector or a Sub-Dvl. Officer.

† The Bhopal State Land Revenue Act of 1932, as amended, Chap. VII.

that the Court shall not issue an order except in the case of acts of omission or commission by the sub-tenant. It declares that all appeals, suits, revisions, etc., for the ejection of sub-tenants pending on the date of the commencement of the Act are to be consigned to the records and that the decrees or orders of ejection, which are not fully executed are to be held in abeyance. Despite these provisions, if a jagirdar attempts to evict a sub-tenant from his holding, he is liable to be tried and sentenced for the offence under section 441 of the Indian Penal Code.

In short, the Act is not comprehensive enough, as it covers only sub-tenants of alienated lands of the jagirdars. Thus, it is enacted with a limited object to prevent evictions of sub-tenants in possession of khud-kasht lands of the jagirdars. It does not cover the remaining tenants. The Land Revenue Act of 1932 is niggardly in its provisions for protection of the tenants. Perhaps, this may be due to the small area of the State and proportionately smaller extent of the tenancy problem.

23. TRAVANCORE-COCHIN.

One fundamental fact about the land system of Travancore-Cochin is that being situated on the southern tip of the Indian Peninsula, it was untrammelled by wars, conquests and foreign domination with the result that it developed an indigenous land system. There were two categories of lands, viz., Jenmom and Sirkari lands. The Jenmom lands covered about 1/5th of the total area and were held by the jenmies, the landlords. Most of the lands were held by the Brahmanical class entirely exempt from taxation, while the non-Brahmin (Nair) jenmies paid Rajabhogam or a light tax. These lands were leased out to tenants (Kudiyans) for cultivation on different tenures. The most common was the Kanom or Kanapattam. It was a lease of 12 years secured by an advance from the tenant, and subject to renewal at the end of that period. The legal right of eviction was seldom exercised. The Royal Proclamation of 1867 recognised the kanam tenure as a perpetual lease and the tenants were given a fixity of tenure subject to payment of a fair rent determined by custom or contract. The Regulation of 1933

recognised the tenants as full proprietors of the soil and placed them on an equal footing with the holder of Sirkar lands. The dues payable to the jenmis were converted into annual payments called Jenmikaram. Thus, all links between the jenmi and the Kudiyan have been cut off and the jenmi is thus entitled to the jenmikaram from the State after deducting the expenses of collection.

Still, there are other types of tenures relating to the Jenmom lands like Verumpattam (temporary lease), Otti (Mortgage), Kuzhi-Kanom (entitling tenants to compensation for improvements) and the Karanma tenures. The Karauma always indicates permanency.

The Sirkar lands form 4/5th of the arable lands and belong to the Sirkar. Generally, the ryotwari tenure underlies all of them. The lands are leased out on the pattom (rent) to tenants-at-will, who have no right of alienation. The pandara-pattom tenure is most widely prevalent in the State. The Proclamation of 1865 declared these tenants as the full proprietors of the lands subject to the payment of the Government dues. This Pattom Proclamation and the Jenmi Kudiyan Proclamation of 1867 are hailed as the "Magna Charta" of the ryots.

There are many peculiarities of the village economy. There are no villages and village communities, as we find in the rest of India. People live in isolated homesteads with adjoining small or big gardens. The Malayalees are highly individualistic in outlook. Consequently, the co-operative movement cannot take root there.

The man-land ratio is very low compared to the rest of India. The State is pre-eminently a land of very small holdings, the size of the average family holding being 3.23 acres. The sub-division of land has been carried to the farthest extent.

In this background, the entire question of tenancy is to be considered. The problem of tenancy assumes serious proportions, where the pressure of population is considerable. In this State in view of the very low man-land ratio, it is natural that the problem is not so serious and perplexing. Besides, the status of the tenants of the Jenmom and Sirkar lands has been settled by past legislation. But it cannot be denied that there

still exist intermediate rights acquired by certain categories of persons. But this phenomenon cannot be dissociated from that of rural indebtedness. The intermediate rights have been created by the peasant proprietors in want. After the liquidation of the Jenmom tenures, the gulf between the landlords and tenants, as is found in other States, is not found here.

The main problem, however, is about the **tenants-at-will** (Verumpattom). According to the Land Policy Committee's report, under the Cochin Verumpattedars Act of 1118 (1942) as subsequently amended, these tenants enjoy absolute immunity from eviction so long as they do not wilfully deny the landlord's title, or commit destructive waste on the property or collusively allow others to encroach upon the lands, etc. The Committee has recommended that a legislation should be undertaken to give Verumpattedars in Travancore permanent occupancy rights, if they are in continuous possession of the lands for 12 years before the date of the appointment of the Committee. It has also recommended resumption for (1) self-cultivation (2) building residential quarters for the use of the landlord or any member of the family or (3) failure to pay the pattom (rent) for two years or for failure to pay it in kind, where it is so specified. But a novel suggestion has been made to the effect that there should be a moratorium on resumption for self-cultivation for a period of 3 years and a minimum period of 5 years for all leases in future.

Any legislation should take note of one regional fact. Here, the land is an object of deepest sentimental attachment. The holdings are generally uneconomic and are, therefore, insufficient for the maintenance of the holders. Many small owners entrust their lands to tenants-at-will and seek their livelihood in other occupations only to return to land either for residence or cultivation at a later stage. Shri Pillai, therefore, sounds a note of warning that legislation, which makes it impossible for the small landholder to recover his land from the tenant for residence or personal cultivation, would produce the greatest discontent and frustration. Any legislation, which would be arbitrarily taking away rights in land or vesting rights which were not there before, would be extremely difficult to enforce.

As regards resumption of lands for personal cultivation, the fact is that only 5.6% of the holdings in the State are more than two acres in area. It is, therefore, suggested that resumption for self-cultivation should not be allowed in cases where a landlord is already in possession of an economic holding. Otherwise such resumption would knock the bottom out of the fixity of tenure. Further, the Committee has recommended eviction of a tenant for sub-letting. The legislation in England provides for dispossession of owners or occupiers on grounds of bad estate management or bad husbandry. The right of eviction for bad husbandry should be a fundamental article in the landlord-tenant relationship.

As regards crop-sharing (Pankuvaram), the Committee is of the opinion that the legal status of a varamdar both according to the accepted law and longstanding usage is that there are no grounds for including him within the term "tenant-at-will" (verumpattom tenant). Pankuvaram is generally found in the rice lands. This system of crop-sharing is adopted in areas where the rainfall is uncertain. It is generally half share (pathivaram).

As regards the fair rents, the Sivaswami Committee, which inquired into the agrarian problems in Cochin, came to the conclusion that the existing rents were rack-rents. The Land Policy Committee has recommended that the rents may be revised on the ground of increase in productivity, rise in prices, etc. But there should be fixity in rents for a period of, say, 10 years. The rents fixed in perpetuity by contract (called Micchavaram) should not be altered.*

In short, the tenancy problem is not so acute, as in other parts of India. Because of the low man-land ratio and the relatively very small size of the holdings and the other regional factors in matters of cultivation, great care should be exercised in framing any legislation for conferring proprietary or occupancy rights on the tenants. But anyway, the tenants-at-will should be given permanent rights. The minimum lease period of 5 years falls short of the period of 10 years adopted in other States. It is true that this State may have a legislation having

* Pillai V. R. : Land Reform in Travancore. *Indian Journal of Agricultural Economics*, March 1953. pp. 143-154.

regard to its past history of agricultural economy and social customs.

The press-report* indicates that a Bill called the Travancore-Cochin Fixation of Maximum Limit of Holdings Bill moved by a leftist member is on the anvil. It is likely to be vehemently opposed, because it proposes to limit the maximum future holdings for a family of five members as follows:—

double crop land	5 acres.
single crop land	10 acres.
dry lands other than coconut gardens	15 acres.

All holdings in possession of or owned by individuals or families as calculated above shall vest in Government and the owners of such lands will be paid compensation at a uniform rate of $7\frac{1}{2}$ times the fair rent fixed in this behalf. And such lands will be distributed at a nominal value amongst the landless people. The fate of the Bill is not known.

The tenancy laws enacted by Travancore-Cochin Government are summarised below:—

- (1) The Travancore Prevention of Eviction Act, 1124.(M).§
- (2) The Travancore Oodukoor Settlement Proclamation, 1122.(M).
- (3) The Holdings (Stay of Execution Proceedings) Act, 1950.
- (4) The Travancore Enfranchisement of Sirkar Pattom Lands Proclamation, 1940.
- (5) The Travancore Jenmi and Kudiyan Act.
- (6) The Travancore Edavagai Act III of 1109.(M).
- (7) The Cochin Tenancy Act XV of 1113.(M).
- (8) The Cochin Verumpattamdars Act VIII of 1118.(M).

The main features of the Acts are summarised below:

- (1) The Act seeks to protect Kudikidappukars† from unlawful eviction. Such persons have to get themselves registered under the Act to get the benefit of the Act. The work of registration is done by the Revenue Department.

* The "Times of India" of 2-9-1953.

† Landless people, who are permitted by owners of lands to build houses on their lands and to occupy them free of rent.

§ (M) Represents the Malayalam ora.

(2) The Act is aimed at abolition of the Oodukoor system (a system of joint tenancy) of holdings in South Travancore and to settle the lands between the parties by metes and bounds. The settlement work is in progress.

(3) Under the provisions of the Act, the proceedings in execution of civil decrees for eviction of lessees and certain kanapattom tenants from their holdings are stayed. This is an interim relief measure pending enactment of a comprehensive legislation in the matter of tenancy.

(4) Before the issue of the proclamation, the holders of the sirkar lands were mere tenants-at-will. The proclamation conferred on the holders permanent rights of occupancy, heritable and transferable.

(5) Under the provisions of the Act, the tenants, who hold jenmom lands on Kanom tenure have been granted full ownership of the lands subject only to the payment of the jenmi's dues. The Act has been fully implemented.

(6) The Act provides for the settlement and better administration of certain freehold estates. Most of the tenants of these estates have now permanent rights of occupancy in their lands. The question of permitting them to acquire full proprietary rights over the holdings is under the consideration of Government.

(7) The Cochin Tenancy Act has granted fixity of tenure to kanom tenants of private lands. The Act has been fully implemented. The Kanom tenant has now the right to occupy the land demised for 12 years or any longer period on payment of renewal fees. Eviction of these tenants is permitted in the event of the denial of the landlord's title and wilful acts of waste.

(8) Before the enactment of this legislation, the Verumpattom tenants were only tenants-at-will or holding for a term. The Act confers upon them the fixity of tenure. Such tenants can be evicted only for non-payment of rents, etc., mentioned in section 8 of the Act.

24. COORG.

No tenancy legislation has been enacted presumably because the tenancy problem may not be urgent or serious.

25. JAMMU AND KASHMIR.

The Tenancy Act of 1924 governs the relations of landlords and tenants in the State. In October 1948, this Act was amended. It provides, inter alia, for maximum rental of 1/4th payable by a tenant to his landlord for grant of protected tenancy in respect of holdings between 2 1/8 and 4 1/8 acres of wet land (including those growing wheat, maize, sugarcane, and linseed) and not more than 1/3rd of the produce in the case of dry land in respect of tenancy holdings exceeding 12½ acres. If the landlord does not provide seed, implements and cattle for the purposes of the cultivation, the tenant is entitled to take the entire fodder for himself. In the case of tenancies not exceeding 12½ acres, the landlord is not entitled to receive more than half the produce, and where the existing rent is less than the maximum rent prescribed by law, it cannot be enhanced.

One of the important provisions is that a tenant, who has been wrongfully evicted after April 1947 is to be reinstated summarily. It prohibits after the 18th November 1948 the execution of ejectment orders or decrees passed by any court against a tenant, who has acquired the right of protected tenancy. The landlord cannot now evict a tenant by service of notice, but has to obtain an order of eviction from a competent court of jurisdiction.

These tenancy reforms have benefited nearly 3/5ths of the peasantry cultivating about 7 lakhs of acres out of 22 lakhs of acres of the cultivable area of the State.*

4. *Criticism and Suggestions.*

We have surveyed the tenancy legislation throughout India. The salient features of these laws are summarized below and, necessary suggestions are offered for future reforms.

- (1) (a) In the latter half of the nineteenth century, the need for tenancy legislation was first felt in the Zamindari areas because of the oppression of the Zamindars. So, the Bengal Tenancy Act, 1859 was enacted for Bengal and was subsequently

* Land Reforms pamphlet published by the Jammu and Kashmir State, p. 5.

adopted in Bihar, Orissa, Assam and influenced similar legislation in U.P. and Madras.

- (b) Subsequently, the need for such a legislation was keenly felt in the northern part of India with the result that the Punjab Tenancy Act, 1887 was enacted. It covered the unpartitioned Punjab and was adopted in Pepsu, Delhi, Himachal Pradesh and Bilaspur.
 - (c) Then the C.P. Tenancy Act, 1898 was enacted. Similar Acts for Agra and Madras were passed in 1901 and 1908.
 - (d) The tenancy legislation for the ryotwari area was first enacted in 1930 for the Malabar district in Madras in consequence of the Mopla riots.
 - (e) Thereafter, every State, whether big or small, undertook similar legislation under the popular Ministries, who were (are) "wedded" to such reforms. In these reforms, the Bombay Tenancy legislation has influenced the Acts of Hyderabad, Saurashtra and Mysore and has been adopted in Kutch.
 - (f) The States of Madhya Bharat, Rajasthan, Vindhya Pradesh, Bhopal, Ajmer-Merwara, Travancore-Cochin had different laws for their constituents. They have now been consolidated into one legislation for each State as far as possible.
- (2) The Acts in Part A and B States are comprehensive in character; whereas those in Part B (some) and C States are frankly limited in their objectives, viz., prevention of eviction, restoration of evicted tenants and fixation of rents.
- (3) All the legislations aim at break-up of large holdings and transferring occupancy rights to tenants. The objective is to abolish tenancy as far as possible and where it is retained as in the case of minors, widows, disabled persons or persons in the Army, Navy and Air Force, the conditions of tenancy are made secure and

the rents are generally reduced. It may be noted here that the Planning Commission does not entirely prohibit tenancy in future. The "3 Fs" have provided incentives to tenants with the result that the laws may stimulate and step up production, increase agricultural production and, in the ultimate analysis, enhance land values. These laws are not likely to increase directly the land revenue of Government; but will increase the land revenue potential.

- (4) The trend of the tenancy legislation is for giving tenants "3 Fs"; but the legislation itself does not aim at reducing the classes of existing tenants, in all the States.

Generally, there are three categories recognised in many States, viz:—

Bombay.

1. Permanent tenant.
2. Protected tenant.
3. Ordinary tenant for 10 years.

Rajasthan.

1. Khatedar tenant.
2. Gair Khatedar tenant.
3. Sub-Tenant.

Madhya Pradesh.

1. Pucca tenant.
2. Ordinary tenant.
3. Sub-tenant.

Assam.

1. Privileged raiyat.
2. Occupancy raiyat.
3. Non-occupancy raiyat.
4. Under-raiyat.

U.P.

1. Permanent tenure holder.
2. Fixed rate tenant.
3. Tenant holding on special terms in Oudh.
4. Ex-proprietary tenant.
5. Occupancy tenant.
6. Hereditary tenant.
7. Non-occupancy tenant.

Bihar

1. Occupancy raiyat (or settled raiyat).
2. Non-occupancy raiyat.
3. Under-raiyat.

The above examples show that the tenancy laws have practically done little in reducing the classes of existing tenants. But this work has been done by the Zamindari Abolition laws of various States. For example, under the U.P. Zamindari Abolition Act, the seven categories of tenants have been reduced to two only, viz., Asamis and Adhivasis. In similar laws of Madhya Bharat, Rajasthan, Madhya Pradesh, Bombay, etc., provision has been made to recognise or confer occupancy, pattedari or malik makbuza rights on the tenants on payment of multiples of assessment or rent to the landlord or Government, as the case may be. But this is not enough. The existing tenancy laws should be so amended that only one type of tenancy of the 'protected tenancy' type of Bombay should be recognised and other intermediate stages of tenancy should be abolished. Further, such Acts should specifically provide for conferment of occupancy rights on the tenants on payment of occupancy price, which should not be left to be decided by the Agricultural Land Tribunals or any other bodies. This is absolutely necessary for levelling up the tenants in the agricultural ladder.

Except in a few small States in North India, the tenants in most of the States of India have under the tenancy laws, to all intents and purposes, ceased to be tenants-at-will. It is therefore not clear why the Planning Commission (p. 192) has

dealt with the problem under the sub-head "tenants-at-will". At present, the ordinary tenants (who were formerly tenants-at-will) are for 10 years in Bombay, Hyderabad, Saurashtra and Kutch and the tenancy is renewable automatically on the expiration of the said period. Mysore and Tanjore prescribe a tenancy for a period of not less than 5 years, Malabar and Travancore-Cochin have a 12 years' lease renewable on payment of fess to landlord. Thus, there is no uniformity in the minimum period of tenancy. The Planning Commission has suggested (pp. 192-193) that the tenancy should ordinarily be for five to ten years and should be renewable, resumption being permitted for personal cultivation by the landlord in certain cases only. For the sake of uniformity, the ten-year period should be adopted for all the States subject to the right of resumption for personal cultivation by small and middle owners. Further, in Malabar and Travancore-Cochin, nazarana is charged by the landlord for renewal of the lease on expiry thereof. Levy of such a nazarana should be immediately stopped.

This leads us to the question of resumption of lands by landlords for personal cultivation. It is inseparably linked up with the question of fixation of ceilings of lands an individual land-owner could hold and will be dealt with in the last chapter.

As regards the maximum rents payable by tenants in different States, the provisions vary substantially. The rents seem to have been fixed with regard to custom, usage, law and agreement between landlords and tenants. They are generally payable in cash or kind. But in some States like Bhopal and East Punjab, the rent includes, in addition, 'service' to the landlord. The 'service' content of the rent has been specifically prohibited in the legislation of Bombay, Hyderabad, U.P., Mysore, etc. Topping all, the Assam Act includes 'Bhog' (articles of food required by custom to be offered to deities) as an element of rent.

The diversity does not end here. The maxima of rents payable vary in different States, as will be seen from the data tabulated below:—

<i>Name of the State.</i>	<i>Maximum rent payable to landlords.</i>
1. Bombay.	(1) 1/3rd or 1/4th of the crop, respectively, in unirrigated and irrigated lands was originally fixed. The rate is now reduced to 1/6th of crop-share without distinction of irrigated and non-irrigated lands, and cash rent is not to exceed Rs. 20/- per acre.
2. Hyderabad.	(a) on dry chalk land, 4 times the land revenue; (b) on dry land, black soil and bagat land, 5 times the land revenue; (c) on wet lands irrigated by wells, 4 times; and (d) on wet land irrigated by other sources, 5 times. The rent is payable in cash, but is also payable in kind at the option of the tenant.
3. Saurashtra.	(a) Millet, Juwar, Adad and Mung, 1/4th of the produce. (b) other crops, 1/5th of the produce.
4. Kutch.	The statutory provisions of the Bombay Act are followed.
5. Mysore.	1/2 of crop or its value.
6. West Bengal.	(1) In the case of an agreement between bargadars and land owners, such quantum as may be agreed upon; (2) In the absence of such agreement, (a) from the gross crop, the seed-grains supplied by the owner should be first returned to him;

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<i>Name of the State.</i>	<i>Maximum rent payable to landlords.</i>
	(b) out of the balance, the bargadar and the landowners, $\frac{1}{3}$ rd each subject to the local custom ;
	(c) out of the remainder, a fair division according to their respective contributions to the cost of cultivation.
7. Assam.	Out of the produce, the amount of seedgrains is to be deducted first and given to the landlord. Then landlord is entitled to $\frac{1}{3}$ rd or $\frac{1}{4}$ th of the produce according as he has supplied or has not supplied the plough-cattle.
8. Bihar.	In the case of the under-raiyats paying cash rents, the rent is not to exceed 50% of the rent payable by the raiyat. Produce rents are not regulated by law.
9. Orissa.	<p>I. Rents are money rents or produce rents :</p> <p>(a) money rents as agreed upon.</p> <p>(b) produce rents as under :</p> <p>$\frac{2}{3}$rd—crop-sharer.</p> <p>$\frac{1}{3}$rd—landlord subject to custom.</p> <p>II. For occupancy tenants only :</p> <p>(i) Districts of Puri, Cuttock and Balasore—$\frac{1}{3}$rd of the produce or its value.</p> <p>(ii) Ganjam and Koraput Districts—$\frac{1}{6}$th of the produce or its value.*</p>

* According to Malaviya (Land Reforms in India), the rent is not to exceed $\frac{2}{5}$ th of the gross produce, (p. 449).

<i>Name of the State.</i>	<i>Maximum rent payable to landlords.</i>
10. U.P.	Rent as agreed upon between landlords and tenants. The rent payable by existing sub-tenants (Adhivasis) is not to exceed $133\frac{1}{3}\%$ of the hereditary rent. This comes to Rs. 8 per acre on an average.
11. Madras.	Rent agreed upon. Different rates prevail in different parts of the State e.g. Tanjore— $\frac{3}{5}$ th to landlord, $\frac{2}{5}$ th to tenant. Malabar— $\frac{2}{3}$ rds of net produce in the case of wet lands.
12. East Punjab.	(a) not to exceed $\frac{1}{3}$ rd of the crop share or its value. (b) where the customary rent is less than $\frac{1}{3}$ rd, it is to be deemed the maximum rent.
13. Pepsu.	$\frac{1}{3}$ rd of the gross produce.
14. Delhi.	Customary rents. Revision of the Act is under consideration.
15. Bilaspur.	As in the Punjab.
16. Himachal Pradesh.	$\frac{1}{4}$ th of the produce. (It is proposed to be raised to $\frac{1}{3}$ rd).
17. Madhya Pradesh.	Rent agreed upon. It usually varies from $\frac{1}{2}$ to $\frac{1}{3}$ rd of the gross produce. Rent payable in instalments and arrears of rent to bear interest at 6%.
18. Madhya Bharat.	Twice the assessment in the case of sub-tenants.
19. Rajasthan.	$\frac{1}{6}$ th of the gross produce.
20. Ajmer-Merwara.	(a) Hereditary or non-hereditary occupancy tenants— $\frac{1}{5}$ th of the gross produce.

<i>Name of the State.</i>	<i>Maximum rent payable to landlords.</i>
	(b) occupancy tenant—1/6th of the gross produce.
	(c) Ex-proprietary tenant—1/8th of the gross produce.
21. Vindhya Pradesh.	Not known.
22. Bhopal.	(a) Cash.
	(b) kind and
	(c) service, as agreed upon.
23. Travancore-Cochin.	As agreed upon.
24. Coorg.	Not known.
25. Jammu & Kashmir.	1/4th irrigated. 1/3rd non-irrigated.

The maxima of rents set forth above show a bewildering variety, particularly in the matter of produce rents. Of course, the customs, usages, laws and agreements regarding rents between landlords and tenants are responsible for the multiplicity of rates of rent. But having regard to the local considerations, some uniformity in the rental rates is not impossible. The Report of the Planning Commission suggests the principle as under (p. 193) :—

“The determination of rent has to be regarded essentially as a question for consideration in the light of local conditions. The essential principle would appear to be that the rent of land should be so fixed that having regard to the expenses of cultivation and other risks, a fair wage remains for the cultivator. While it is difficult to suggest a generally applicable maximum rate of rent over the greater part of the country, a rate of rent exceeding one fourth or one fifth of the produce would be regarded as requiring special justification”.

This is a very guarded observation and in the context of the existing tenancy laws, which have already reduced rents to 1/4th or 1/5th of the produce in several States, it does not seem to supply a tangible yardstick for practical purposes.

Bombay, Rajasthan, Ajmer-Merwara and Orissa have already reduced rents to 1/6th of the produce. In the light of the Planning Commission's directive, they perhaps seem a little ahead of the time. But the time has come when the rate of rents should be fixed with reference to the land revenue, as has been proposed in Hyderabad. In China, tenants of non-cultivating owners pay as rent 25 or 30% of the gross produce, and the land tax comes to 8 to 10% of the gross produce, i.e. the rent comes to three times the land tax generally. The basis of land revenue is a tangible standard which deserves to be adopted for fixing rents. In India, with excessive pressure of population on land, "tenancy becomes a fruitful source of exploitation". This exploitation can be substantially reduced if the yardstick of land revenue as a basis of rent is adopted.

As regards fixity of tenure and protection from eviction, the laws have gone a great way in alleviating the conditions of the tenants. Even care has been taken to reinstate the tenants, who were evicted as far back as 1947, although the landlords had in the meanwhile invested substantial capital and labour to mechanize agricultural operations. Some doubt the wisdom of restoration of the tenants of such landlords. But on the whole, barring such few exceptions, the provisions have done real good to the tenants. But this fact raises an allied question of security of ownership and expectations on the part of landlords. The tenancy laws are generally liberalised in favour of tenants, but as the Bombay High Court has observed in the recent tenancy case, "it is but right that the landlords should feel that the State in protecting the tenants is not being unfair and inequitable to the landlord". These observations are extremely relevant in this context.

Sub-tenancy or sub-letting should be prohibited except in the case of minors, widows, disabled persons and persons in the Army, Air and Naval Services.

Further, the Acts of Assam and West Bengal in regard to the fixation of crop-shares of Adhiars and Bargadars provide that the Adhiars and Bargadars should not be recognised as tenants i.e. these share-croppers should not expect to become tenants. And strangely enough, this is in Bengal where the

first tenancy legislation was enacted in India in 1859! It is high time that the share-croppers of Assam and Bengal are levelled up in the agricultural ladder.

Some tenancy laws like that in Hyderabad provide for formation of co-operative farming societies, consolidation of holdings and census of agricultural holdings. It is for consideration whether these provisions are appropriate in the tenancy laws. Now that all Zamindari and non-ryotwari tenures are abolished, some state Governments have taken up the question of consolidating of all land laws of the State. The Madhya Pradesh Government has taken the lead in revising its land revenue Act. The provisions of the Hyderabad Act referred to above should properly find a place in such consolidated land laws.

While dealing with the provisions of the Bombay Act, the urgency of inquiry into the working and results of the Act has been stressed. This has been suggested in order to assess whether the tenancy legislation, which has been primarily passed for the benefit of tenants, has actually benefited them and has no adverse effects on other parts of the agricultural sector. Such an inquiry becomes a desideratum in the light of the results obtained in the inquiry conducted to ascertain the effects of the Hyderabad Tenancy and Agricultural Lands Act, 1950. The inquiry was a fact-finding study made in 1950 by Prof. Kesava Iyengar and was "free from political and legal quibbles". A few relevant results of the inquiry are interesting and are therefore stated below:—

(1) Additional land is considered a liability, as the tenancy legislation is not accompanied by effective scheme of credit facilities.

(2) "While the Hyderabad Government claims that 6,09,000 protected tenancy certificates have been issued to tenants and 5,000 are yet to be distributed, the actual fact is that many of these certificates have been handed over to the concerned landholders, a good number returned to the Tehsil offices and a considerable number held by ex-tenants, either evicted or surrendered".

(3) Tenancies have changed in the largest number after the enforcement of the Act on June 10, 1950, in spite of the fact that the object of the Act was and is to eradicate evictions.

The above assessment of the working of the Act relates to 6 representative villages from over 6000 villages of the State. (A greater number of villages could not be covered for want of finance). Prof. Iyengar has pathetically observed that "Written receipts, commutation of rents into money terms, tenant housing, utilization of fruit and timber, co-operative and collective farming—these and other matters are closely conditioned by the general level of education and co-operative spirit. No laws can compel a cultivator into new ways". He has therefore suggested that "A clear understanding and a forecast of repercussions of land reforms on other sectors of social reform like urban housing, industrial labour, Government employees and dividend receivers should be thought out."*

As a precedent, it may be stated that such inquiries for periodical assessment of the tenancy legislation have been made, notably in the U.S.A. The Bankhead-Jones Farm Tenant Act was passed in 1937. A Select Committee of the House Committee on Agriculture was appointed in March 1943 to assess the operation and effects of that tenancy legislation. On the basis of the Report of that Committee, the said Act was amended after 9 years of its operation.† Unfortunately, we witness here an interminable process of amendment of the tenancy legislation without previous inquiry into the working of the laws. This fact points to the need of an urgent inquiry into the effects of the law by an impartial body before amendment to the law is considered. It is high time that such inquiries are undertaken in all the States of India and the tenancy laws are placed on a more realistic basis so that the State Governments may know exactly the effects, beneficial or otherwise, of the laws on tenants in whose favour those laws are liberalised.

* Prof. Iyengar, S. Kesava : *The Hyderabad Economic Village Studies General Notes on I to VI* (1952), pp. 27 and 30.

† Moris, Paul V. : "The land is mine" 1950. Agriculture Monograph No. 8 by the Government of U. S. A., p. 9.

Lastly, in some States of India, there are more than one law regulating tenancy matters. For example, there are three tenancy Acts in Bihar, three distinct laws for Madras, Malabar and Tanjore in the Madras State, two in West Bengal and Cooch Behar, two in the small State of Delhi and several Acts in Travancore-Cochin. Steps should be taken immediately to consolidate all those laws on a uniform basis.

CHAPTER XVIII

JAGIRS

1. *Introduction.*

According to Wilson's Glossary of Judicial and Revenue Terms, the expression 'Jagir' means any grant of land and/or land revenue made by a ruler to his servant or subject in appreciation of services rendered or to be rendered in future. It consisted either of entire villages, parcels of lands, amals (shares of revenue) or cash allowances. The jagirs were, generally, for the life-time of the grantees and consisted of land revenue. Although *prima facie*, they were estates only for life, they were granted in such terms which made them hereditary.* The grants were made sometimes to the relatives of the ruler for maintenance and support of the status and dignity. Some grants were for maintenance of troops or private army, which could be requisitioned in times of war or any emergency in the State. The grantees of the latter type were called Patawats. Some were purely on service-tenure such as chakariat jagirs. Some jagirdars like the Bhomia were already on the soil (Bhoomi) before the advent of the new ruler or dynasty and were, therefore, not the grantees. From these facts, it is clear that the grants of jagirs were made by different rulers—Muslims, Rajputs or Marathas—for creating feudal interests, which would render assistance and support to the State both in peace and war. Further, the Jagirdars were expected to carry out the wishes of the Rulers in all the circumstances and any negligence or remissness in duty on their part was visited with forfeiture of the jagirs. Thus, all the jagirs whether they were for life-time, hereditary or permanent, were continuable during the pleasure of the Ruler and there was nothing which could prevent the Ruler from resuming them even for the slightest dereliction of duty, real or imaginary. This fundamental feature of the jagirs should be borne in mind while considering the question of their abolition and particularly the quantum of compensation.

* Gulabdas v. Collector of Surat, I. L. R. 3 Bom. 186 (P. C.).

Some of the jagirs were originally functional in that they were associated with some sort of service to the State. But with the passage of time and settlement and pacification of the countryside under the British administration, they ceased to be functional and became ornamental. The jagirdars graced the ceremonial functions of the State. As a result, they lost their original physical and military prowess, and sank into physical and mental stupor. Many became useless to the State and the Society. But they served as a bulwark against any progressive political reforms and were used for suppressing any movement of reform not palatable to the ruler. This was the position at the time of the merger of the Indian States in 1947-48.

With the merger and integration of the Indian States, the attention of Government and the public was drawn to the existence of jagirs in those areas. The fundamental fact about the Jagirs was that they were generally grantees of the Rulers, who merged in the Union by execution of the privy purse or Zamindari agreements; but the jagirdars, who were holding neither jurisdictional nor non-jurisdictional States, escaped in the new administrative set-up. They were like loose links in the administration—an imperium in imperio. As a result, they continued to manage their jagiri villages as before according to the custom of the jagirs and the State Governments were helpless witnesses to the spectacle of harassment and oppression of the ryots without any effective interference in the administration of those villages. Besides, the jagirs originated in different circumstances and had, therefore, various customs regulating their administration. Whatever their categories and customs of the jagirs, it was clear that the jagirs were either grants of land and land revenue both or of land revenue only. Generally speaking, most of the jagirs were grants of revenue, which were meant to support the families of the grantees.

The Jagirs were found predominantly in the northern part of India viz. Jammu and Kashmir, Rajasthan, Madhya Bharat, Bhopal, Vindhya Pradesh, Saurashtra, Bombay and Hyderabad. The States like the U.P., Madhya Pradesh, Bihar and Orissa, which were primarily Zamindari States, had no jagiri problem for obvious reasons. But the problem of jagirs was found in

juxta-position with that of the Zamindari in Madhya Bharat, Saurashtra and Madras.

2. *Categories of jagirs.*

It is now proposed to give details about the Jagirs in different States stated above. To begin with, in the *Jammu and Kashmir* State, the jagirs and muafis were either in cash or in kind. Some were continuable "during the pleasure of the ruler" and some were continuable in perpetuity or were dependent on service to the State. The jagirdar had the power to recover his assessment in kind either wholly or in part, calculated at a fantastically low commutation price, which worked at less than 20% of the market rate. The jagirdar enjoyed certain privileges such as the levy of grazing fees on cattle, forest rights, appropriation of waste lands, etc. The muafidars enjoyed the same privileges as the jagirdars. They used to derive all benefits from the assigned lands and paid no land revenue to Government. The Mukarraridar was another privileged class, who received fixed cash grants every six months from the State. The number of Jagirdars and Muafidars was 396 and between them, they used to appropriate Rs. 5,56,313 annually as land revenue. The Mukarraridars numbered 2,347 and received Rs. 1,77,921 as cash grants every year. There were two jurisdictional jagirs of Poonch and Chenani, which were abolished along with other jagirs. This saved Government Rs. 7 lakhs per year and relieved cultivators of the payment in kind to the tune of Rs. 3¼ lakhs.*

In *Madhya Bharat*, the feudal system was established by the Maratha rulers in the Central India in the 18th century, when they rewarded their warriors with territories for helping and consolidating their conquests. There were different categories, viz., Jadid Usool, Istimrardar, Tankhedar and Muafidar, Muafi Dharmadaya and inam and charities, muafi devasthan, Nuakardar and Gujaridar, etc. They were mainly held by Rajputs, Marathas, Brahmins, Muslims, Kayasthas, and others. The total number of jagirs was 1,329 comprising an area of 8,449 sq. miles spread over 4,249 villages containing a population of 11,25,000. The total annual income of the jagirdars

* Land Reforms published by the Jammu and Kashmir State.

was of the order of Rs. 74 lakhs out of which they used to pay to the State only Rs. 12 lakhs.*

In *Hyderabad*, the Jagir Commission was appointed in 1947. The Commission observed that the jagirs of Hyderabad were grants of revenue only, and the jagirdars had no right to the soil. There were six kinds of jagirs,† viz.,

- (1) Paiga or Jamiat jagirs were assigned for maintenance of paiga or troops.
- (2) Altanga jagirs were revenue-free grants made under the royal seal. They were perpetual and hereditary, but the rights therein were not transferable by sale, gift or bequest.
- (3) Zat-jagirs were grants of large areas of land for the maintenance of the grantee without stipulation of service.
- (4) Tankha-jagirs were grants of land made to meet the salaries due to the grantees for the services rendered. A large number of them was either resumed or redeemed.
- (5) Mashrooti jagirs were grants for performance of religious, civil or military service and were continued so long as conditions of the grants were fulfilled.
- (6) Madad-maash jagirs were solely granted for the maintenance of the donee or for supplementing the means of livelihood.

The above jagirs comprised 6,535 villages and formed 30.9% of the total area of the State. At the time of the abolition of jagirs in 1949, the survey and settlement was introduced in 5,398 villages out of 6,535 villages. The lands in the jagiri villages were held on the ryotwari system. The position of tenants in these villages was not secure, although the jagirdars were only the assignees of land revenue.

In addition to the right of collecting land revenue, the jagirdars had jurisdiction over excise, forests, and fisheries within their jagirs. Most of them exercised judicial and police powers also. Those powers were gradually curtailed and finally

* Report of the Rajasthan-Madhya Bharat Jagir Enquiry Committee (1950), pp. 29-30.

† Report of the Agrarian Reforms Committee, 1949, p. 7.

extinguished in 1947 as a first step towards implementation of the recommendations of the Jagir Commission.

Rajasthan was a jagir-ridden State. The jagiri system was 700 years old. According to the Venkatachar Jagirs Abolition committee, 1950, the jagirs were grouped under eight categories, viz., jagir, juna jagir, bhom, charitable grants, bhomi-chara, inam, service grants and permanently quit-rented estates and lands. The system had four attributes. To begin with, there was a clear distinction between the property rights and the 'chiefs' rights. In the former, the division of rights was according to the Hindu Law of inheritance, whereas in the latter case, the rights were not divisible. Secondly, the jagiri rights could not be alienated nor could they be foreclosed by mortgages. Thirdly, the assignment of jagir did not confer any property rights on the assignee. Lastly, the rule of primogeniture was applicable to the estates and maintained them intact. But in reality, there was an extreme fragmentation of the jagirs.

Rajasthan was the stronghold of jagirs. The jagiri system obtained in 16,780 entire villages comprising an area of 77,110 sq. miles. Besides, there were scattered lands on the jagiri system. Thus, two-thirds of the area was on this system. According to the estimate of the Rajasthan-Madhya Bharat Jagir Enquiry Committee, 1950, the jagirdars paid an annual tribute of Rs. 44,98,278 exclusive of the chakri levied in kind in the Bikaner division. The jagirdars enjoyed not only income from their lands, but they claimed certain fiscal powers, which had been recognised by the Rajasthan Government in lieu of which the State had agreed, for the time being, to payment of compensation for excise, opium, customs, salt, mines, cattle-pound, kodi, hawala and forest rights.* The amount of compensation paid in cash and kind to the jagirdars in respect of the excise, opium, and customs alone was estimated at Rs. 3,04,227.

As regards *Bhopal*, there were 106 jagirs covering an area of 7.64 lakh acres of land. The number of villages was 604, which yielded a total sanadi income of Rs. 7.79 lakhs. There

* Report of the Rajasthan Madhya Bharat Jagir Enquiry Committee, (1950), pp. 27 and 34.

were 2,120 jagirdars. The figure of 106 jagirs included 44 jagirs held by the members of the ruling family. Out of 106 jagirs, 8 were hereditary i.e. Naslan-Bad-Naslan and the rest life-tenure jagirs, (Hin Hayati jagirs), the holders of which had no proprietary rights but were entitled to the revenues arising out of the lands during their life-time. The jagirs were spread over 20% of the total area of the State yielding 17% of the total land revenue. The aforesaid Jagir Abolition Committee recommended abolition of the jagirs.

In *Vindhya Pradesh*, there were 3,847 pawais and jagirs covering 6,139 villages with gross assets of Rs. 34,47,562.

The jagirs in the *United States of Saurashtra* were not of a different character. According to the Report of the Saurashtra Agrarian Reforms Commission, the jagirs were of the following categories:

- (1) inamdars including imperial grantees i.e. grantees of the former paramount power, such as the Emperor of Delhi, the Peshwa or the Gaekwar,
- (2) jiwaidars,
- (3) dharmada including kherati grantees, and
- (4) service tenure-holders, such as chakariat and pasayat.

All these land holders had no proprietary interests in land but were entitled to the usufruct of their holdings. The common characteristic of all these grants was that they were resumable by the grantor at will.* All these grantees were called Barkhalidars, which term embraced jiwaidars, chakariats, kheratis and dharmadas. The number of the Barkhalidars was about 19,000 holding 8 lakh acres.

After abolition of the saranjams, jahagirs and other political grants of the pre-merger *Bombay State*, the jagirs,† (proprietary and non-proprietary) remained in the merged areas of Bombay. Extensive areas were held by jagirdars in the former States of Idar, Palanpur, Tharad, Lunawada, Kolhapur,

* Report of the Saurashtra Agrarian Reforms Commission, 1950, paras 48 to 50, p. 21.

† See chapter on "Jagirs" in Part I of this book for detailed discussion.

etc. The jagirs had several categories like Bhomia, Patawat, Jiwai, Makta, Bhagena (co-shared), chakariat, etc. There were devasthan and dharamada jagirs, but they were specifically excluded in view of the general policy of Government to continue them. To these categories, one category of 'jagir' was added. After merger, some of the Thakors and Talukdars in Gujarat executed the Zamindari agreement under which they retained all rights to the lands (excluding lands used by the public or for the benefit of the public) and revenue collection according to the revenue laws of the State. The agreements created new intermediary interests between Government and the ryots. Consequently, Government decided to abolish such 'zamindari agreement estates'.

The Jagirdars held 3,321 entire villages covering an area of 30,79,870 acres. The Zamindari agreement estates were 73 in number and were found in the districts of Sabarkantha, Banaskantha, Mehsana and Baroda. Their annual income was of the order of Rs. 52½ lakhs out of which they paid to Government only Rs. 6 lakhs per annum.

3. *Case for abolition.*

Although the jagirs existed in many cases for a period over a century, their abolition was not thought of or contemplated during the British regime. The reasons were obvious. The jagirdars served as supporters of the vested interests and as a bulwark against any progressive political reforms. They were, therefore, retained to support the Talukdars, Thakors, Rulers and the British Government itself. This political reason ceased to exist after the achievement of Independence. With the abolition of the Princely Order of India, the jagirs lost their *raison d'être*. Secondly, in the post-Independence era, the national Government had to introduce at a considerable cost all administrative amenities in the merged areas where in many cases they were scarcely found. Many jagirs and estates paid to Government next to nothing or small sums, which were ridiculous in comparison to the heavy cost incurred by Government on administration. The contributions from the jagirdars were scarcely *quid pro quo*. So, from this point of view, they were a dead-weight and a drag on the State

finances. Thirdly, they were unnecessary intermediaries between Government and the ryots. This led to the oppression and rack-renting of the cultivators of those areas without any questioning interference by the State Governments. Soon after Independence, many State Governments abolished several obnoxious taxes like cesses, veth, babs, begar, veros, which the jagirdars used to recover from their cultivators in addition to the usual rent in cash and/or kind. But this step was not sufficient to alleviate the conditions of the ryots. Despite the tenancy laws in various States, the harassment and oppression from the non-cultivating intermediaries continued. In their general policy for abolition of intermediaries between Government and the ryots, the jagirdars could not continue any longer. In the post-Independence days, the people clamoured for abolition of the jagirdars, as they should not survive the fall of their masters or grantors. With the re-drawing of the political map of India and in the new administrative set-up, those feudal elements had outlived their utility.

4. *The Jagiri Abolition legislation.*

As a result, various State Governments enacted special laws for abolition of jagirs whether they were jurisdictional or non-jurisdictional, proprietary or non-proprietary. The following Acts or Bills have been so far enacted or are in the process of enactment.

- (1) The Jammu and Kashmir State Order of April 1948 (1st Baisakh, 2005).
- (2) The Hyderabad (Abolition of Jagirs) Regulation, 1949.
- (3) The Rajasthan Land Reforms and Resumption of Jagirs Act, 1952.
- (4) The Madhya Bharat Abolition of Jagirs Act, 1951.
- (5) The Bhopal Abolition of Jagirs and Land Reforms Act, 1953.
- (6) The Vindhya Pradesh Abolition of Jagirs and Land Reforms Act, 1952.
- (7) The Saurashtra Barkhali Abolition Act, 1951.
- (8) The Bombay Merged Territories and Areas (Jagirs Abolition) Bill, 1953.

As regards these Acts, it is not necessary to deal with each of them in full detail, but it is proposed to consider them analytically and make a comparative study of the following aspects of the legislation:—

- (1) vesting of jagirs in Government,
- (2) recognition or conferment of occupancy rights,
- (3) compensation,
- (4) debt settlement,
- (5) procedural or other peculiarities, if any,
- (6) financial implications,
- (7) alternative administrative arrangements, and
- (8) socio-economic effects of the legislation.

5. *Vesting of the Jagirs in Government.*

All the laws vest the jagirs in the State Government with effect from the dates from which the laws have been enforced by notifications in the official Gazettes. It may be noted that all the jagirs are not vested in Government from one single date in all the States, the vesting being a matter of political and administrative expediency with each State Government. Such a provision is found in the laws of Rajasthan and Madhya Bharat, particularly. Besides, some State Governments like Rajasthan have provided that the jagirs (a) assigned for places of religious worship or for the performance of any religious service, and (b) those the income of which does not exceed Rs. 5,000 are excluded from the operation of the Act. All buildings used for schools, offices, hospitals and other public purposes are deemed to have been transferred to Government. On the other hand, private lands, buildings, wells, tanks, house-sites, enclosures, groves, etc., are continued as belonging to the jagirdar. In Bombay, the inam grants made to religious or charitable institutions and for service to Government are saved.

The consequences of vesting or resumption are that all rights of jagirdars and any person claiming through them in their jagir lands including forest trees, fisheries, wells, tanks, ponds, water-channels, village-sites, *hats*, bazaars, mines and minerals vest in Government. The jagirdars' rights to recover and levy cesses are abolished and the cultivators are made directly liable to the payment of land revenue or rent that they

used to pay to the jagirdars. Government has not recognised any rights created by a jagirdar in favour of the third parties. Nor is Government liable to pay any debts incurred by a jagirdar. Government ceases to pay to a jagirdar his cash haks and the jagirdar ceases to pay any tribute or Tanko to Government. But he is not relieved of his existing indebtedness to Government nor is he debarred from recovering his past arrears of rent and other dues in respect of his jagiri rights. Such provisions are found in the Acts of Rajasthan, Madhya Bharat, Vindhya Pradesh and Hyderabad. In *Kashmir*, the resumption of jagirs, and muafis has been outright and without compensation. In *Bombay*, however, the distinction between proprietary and non-proprietary jagirs has been made in the matter of resumption. In the case of the proprietary jagirs, the properties such as roads, lanes, paths, unbuilt village sites, waste and uncultivated lands (excluding lands used for non-agricultural purposes) have been vested in Government. The Jagirdar's right to recover rent or assessment of land or to levy or recover any kind of tax, cess, fee, charge, any hak, the right of reversion or lapse, if any, and all other rights of a jagirdar or any other person legally subsisting are extinguished. The subsisting rights of jagirdars to mines and minerals and trees are not affected. Like the Acts of Rajasthan, Madhya Bharat and Hyderabad, there is no wholesale or outright resumption of all rights of jagirdars. But in the case of the non-proprietary jagirs, there is an outright resumption excluding the ghar-khed (khud-kasht) lands in the possession of jagirdars.

The *Hyderabad* Regulation has been enforced with effect from 15-8-1949. It does not affect the personal property of the jagirdars, and hissadars and their home farms. In order to minimise the hardships of the jagirdars, provision has been made for allotment of khudkasht lands to them. The lands are to be granted on a sliding scale. However in no case, the khudkhasht lands are to exceed 500 acres. The lands are to be allotted from the waste and other lands and if need be, by dispossessing the tenants.

In *Saurashtra*, the vesting of the jagirs is complete. But the jagirdars, who are generally called Barkhalidars, are entitled to have ghar-khed lands on application to Government. The

Act provides a detailed procedure for allotment of lands for personal cultivation. A Barkhalidar in whose estate agricultural lands are equal to two economic holdings or less and who is not holding a chakariat, dharmada institution or a jiwaidar for life is to be allotted lands to the extent of one-half of the total area of agricultural land held by each of his tenants, but in doing this, the total area in his possession is not to exceed one economic holding.*

One feature of the Saurashtra reforms is noteworthy. In the case of the laws of other States, on resumption or extinguishment of the jagirs, the lands become liable to payment of full assessment immediately with effect from the coming into force of the Acts. But in Saurashtra, the Act provides for payment of land revenue on a graduated scale. All Barkhalidars with estates larger than two economic holdings have to pay full assessment to Government on the gharkhed lands and the smaller ones have to pay land revenue at 4 annas per acre for the first four years, 8 annas per acre for the next 6 years, half the assessment for the next 8 years and full assessment after 18 years.

The *Rajasthan* Act provides for levy of assessment on a graduated scale as follows:—

- (a) for the agricultural year 1951-52, an amount equal to the amount of tribute payable by him to Government for the year;
- (b) for the agricultural year 1952-53, and each of the four succeeding agricultural years, one-eighth of the rental income from the jagir lands,
- (c) for the agricultural year 1957-58 and subsequent years, one-fourth of the rental income from the jagir lands.

The Act provides for allotment of khudkasht lands to jagirdars and zamindars, who do not hold any khudkasht lands or have less than the maximum area of 500 acres. But the khudkasht area is not to exceed

* The area of an economic holding differs in different districts of Saurashtra for different classes of lands : vide the First Schedule to the Saurashtra Land Reforms Act, 1951. The average area of an economic holding comes to 32 acres.

- (a) where the area of the jagir land does not exceed 60 acres, one half of the area;
- (b) where the area of the jagir land exceeds 60 acres, but does not exceed 200 acres, 25% of the area in excess of 60 acres in addition to the area permissible under (a),
- (c) where the area of the jagir land exceeds 200 acres but does not exceed 500 acres, 15% of the area in excess of 200 acres in addition to the area permissible under clauses (a) and (b);
- (d) where the area of the jagir land exceeds 500 acres but does not exceed 1000 acres, 10% of the area in excess of 500 acres in addition to the area permissible under (a), (b) and (c) so that the maximum area so allotted shall not exceed 500 acres. The acre referred to is unirrigated land and an acre of an irrigated land is equal to three acres of unirrigated land.

Apart from the high maximum area of 500 acres provided, the categories of lands that are to be allotted for khud-kasht is very important. They are to be allotted from lands

- (1) surrendered by tenants,
- (2) abandoned by tenants,
- (3) held on lease terminable within a period of 2 years,
- (4) held by sub-tenants directly from a jagirdar,
- (5) culturable unoccupied lands within the jagir, etc.

Where lands of the above categories are not available, applications for allotment of khud-kasht lands are to be rejected.

The *Bhopal Act* provides that each jagirdar, who had no land would be allotted lands for personal cultivation so much area as to make up a holding of 75 acres. Further, a jagirdar would be allowed to retain as much area of 'khud-kasht' land as had been in his personal cultivation continuously for 3 years immediately before the date of resumption and also as much area as he might have reclaimed from waste land during those years.

The Bhopal legislation blazes a new trail in one respect amongst the Jagiri abolition laws. It provides for the voluntary surrender of the jagirs by the jagirdars before 3rd August

1953,—the date on which the Bill was introduced in the Legislature. If any jagirdar applies for the resumption of their jagirs, they are to be paid cash annuities. The cash annuities are based on the annual amount equal to his sanadi income minus 'abwab' in the case of the life jagirs. In the case of the hereditary grants, an amount equal to 60% of the income so worked out is to be added. Reading the signs of the times, 45 jagirdars with an annual income of Rs. 4,35,000 have surrendered voluntarily their estates to the State Government. They will receive an amount of Rs. 4,14,000 from Government as cash annuities.

In *Bombay*, the Act allows the gharkhed lands to continue in possession of the Jagirdars, whether the Jagirs are proprietary, non-proprietary or jiwai. It does not provide for the maximum limit to which the gharkhed lands can be held by a jagirdar or his cadets.

In *Vindhya Pradesh*, the Act provides for resumption of the jagirs. From the date of resumption,

- (i) the right, title and interest of jagirdars, pawaidars and persons claiming through them in respect of excise revenue, forests, trees, fisheries, wells, tanks, ponds, water channels, ferries, pathways, village-sites, *hats*, bazaars, mela grounds, mines and minerals are vested in the State Government free from all encumbrances;
- (ii) the rights, titles and interests if created by jagirdars against the State are extinguished;
- (iii) all rents and cesses payable to the jagirdars are payable to the State Government,
- (iv) mortgagees in possession of the jagir lands or any part thereof are treated as a simple mortgage to the extent of the amount secured by the mortgage; and
- (v) subject to any rules, all proceedings relating to a jagir land pending in any Court are to be stayed.

But certain properties of the jagirdars are saved. Private wells, trees in *abadi* and buildings belonging to a jagirdar or a tenant will continue in his possession. A jagirdar is also entitled to retain possession of groves or orchards as are planted

by him or his predecessors provided they are in his possession at the time of resumption.

The Act provides that a jagirdar shall be allotted all *sir* or khudkasht lands, which were under his personal cultivation for a continuous period of 3 years. If the jagirdar had no such lands or if he has less than 250 acres, he can be allotted such lands out of the jagir land to the extent of 250 acres, if available.

6. *Recognition of occupancy rights.*

In consequence of the abolition of the jagirs, the laws provide either for recognition or conferment of occupancy rights on the jagirdars or inferior holders with or without payment of occupancy price to Government or jagirdars. Such provisions have been made in pursuance of the Government policy to make the tillers of the soil the occupants thereof. This is a very important part of the land reform in that it abolishes partially the absentee landlordism and creates a stake in the lands cultivated by the ryots.

In the *Jammu and Kashmir* State, the cultivators of the jagiri lands have been made occupants without payment of any occupancy price either to Government or to the jagirdars. This is in accord with that Government's policy of resumption of jagirs without payment of compensation. In *Rajasthan*, the khatedari (occupancy) rights in the jagir lands are recognised in the case of

- (1) every tenant, who has heritable and full transferable rights in his tenancy, and
- (2) a jagirdar in respect of his khudkasht land at the commencement of the Act.

They are called Khatedari tenants. Tenants other than those referred to above, who have no heritable and transferable rights in their tenanted lands, can acquire khatedari rights on payment of an amount equal to *ten* times the cash rent or ten times the cash equivalent of the rent in kind. In the case of the jagir lands resumed by Government, the entire sum so realized is to be credited to Government and in the case of the lands not so resumed, one-third of the amount is to be appropriated by Government and two-thirds by the jagirdar.

The *Madhya Bharat* Act has an entirely different scheme in this respect. The Pacea tenancy rights are recognized in the case of the khudkasht lands of the jagirdar and zamindar. Such rights are conferred on every tenant of a jagirdar or a zamindar including a shikmi. Such rights can be acquired by a sub-tenant or a tenant of a sub-tenant within a period of 2 years on payment of

- (a) double the net annual income of the Gair Maurushi tenant,
- (b) an amount equal to six times the net annual income of the Maurushi tenant, in the case of a sub-tenant of a Maurushi tenant, and
- (c) in the case of a sub-tenant,
 - (i) an amount equal to six times the net annual income of a shikmi, if he is a tenant of a shikmi of khud-kasht land of a jagirdar or zamindar ;
 - (ii) an amount equal to eight times the net annual income of the land, in the case of any other tenant of a sub-tenant.

Out of this amount, 85% is to be given to the original tenant and 15% to the sub-tenant.

In *Hyderabad*, most of the jagiri villages are surveyed and settled. The lands are held on the ryotwari system. Although the jagirdars were theoretically the assignees of land revenue, the cultivators in many jagirs were treated as tenants-at-will, and in some, nazarana was charged in granting patta (occupancy right). Ejectment of old tenants was not uncommon. In order to remedy this state of affairs, the Land Revenue Act was amended in 1946. Accordingly, all the cultivators, who were responsible to the jagirdar for payment of land revenue, were deemed to be pattedars (occupants) irrespective of the fact whether their names were or were not entered as such in the jagiri records.* For these reasons, the Hyderabad Regulation makes no provision for conferring the pattedari (occupancy) rights on the cultivators.

* Report of the Hyderabad Agrarian Reforms Committee, 1949, pp. 8-9.

In *Bombay*, in the proprietary jagirs, the following persons are recognised as occupants:

- (a) a jagirdar in the case of the gharkhed land held by him,
- (b) a jagirdar or a cadet in respect of land other than gharkhed land in his actual possession or in the possession of a person other than a permanent holder,
- (c) a permanent holder.

The tenants cultivating lands at (b) are entitled to acquire rights of occupancy on payment of a sum equal to six times the assessment of the land to the jagirdar or the cadet, as the case may be.

In the case of the non-proprietary jagirs, a jagirdar in possession of his gharkhed lands and the permanent holder are recognised as occupants. Further, tenants paying rent to the jagirdar are recognised as occupants on payment to Government of occupancy price equal to six times the assessment.

The right of acquisition of occupancy rights is to be exercised within a period of 2 years. In the case of the life-time jiwai jagirs, the provisions relating to the non-proprietary jagirs apply mutatis mutandis.

In *Saurashtra*, the Barkhalidars and tenants in respect of lands in their possession have become occupants without any payment to the State, except in those cases where the holdings are large in respect of which certain graded payments are required to be made for acquisition of the occupancy rights.

As regards *Vindhya Pradesh*, every person, who is entered as an occupant of any jagir land, is to be recognised as a pattedar tenant and such land is to be assessed at the village rate. Except in the case of sir or khudkasht lands or grove lands allowed to continue in possession of the jagirdars, other tenants are recognised as pattedars.

Information about Bhopal is not available.

7. *Compensation.*

Provisions regarding payment of compensation to the jagirdars for modification or extinguishment of their rights in the jagirs are the pivotal part of the legislation. The Kashmir

laws provide no compensation, which is repugnant to the provisions of Article 31 of the Indian Constitution, which has not been applied to that State. The remaining Acts provide for payment of compensation in either cash and/or bonds, which may be transferable or non-transferable. The quantum of compensation, however, differs in different States presumably because of the variations in the political, historical and administrative background of the problem in each State.

Basis of compensation.

All the Jagiri Abolition Acts make elaborate provisions for determination of the amounts of compensation payable to the jagirdars. Of course, the quantum of compensation varies; so also the reliefs provided to the grantees of maintenance allowance and co-sharers or sub-sharers.

Before dealing with the question of compensation payable to the jagirdars, it is necessary to know the bases of such quantum adopted in different Acts. As stated above, this question does not arise at all in Jammu and Kashmir, where the jagiri system has been abolished without payment of compensation. In the remaining States, the basis of compensation is very important in as much as it has far-reaching effects on the aggregate financial liabilities of the State in the matter of the land reforms. Rajasthan, Madhya Bharat, Vindhya Pradesh and Hyderabad, have adopted the 'net income' of a jagirdar as the basis. In Rajasthan and Madhya Bharat, the net income is arrived at by deducting from the gross income of a jagirdar certain amounts, which he is normally liable to pay to the State. In Hyderabad, the net income is arrived at, after deducting from the gross income, amounts payable to the State and maintenance allowances payable to the Guzarayabs in the case of the Paiga jagir. Particularly Bombay, Saurashtra, and Bhopal fall in one line in adopting '*annual land revenue*' as the basis of compensation. Obviously, therefore, no deductions are to be made in arriving at this basis. Perhaps it is the simplest basis for calculation of compensation.

In the Rajasthan Act, the principles for determination of the compensation are embodied in the Second Schedule to the Act. The compensation payable to a jagirdar is ten times his

net income. To arrive at the net income, the gross income is computed for the basic (agricultural) year. Gross income includes incomes from rents, forests, grazing, quarries, and other non-agricultural uses of land. In order to arrive at the net income of a jagirdar, from this gross income are deducted the amounts of tribute payable to Government, any cess or tax payable to a local authority, any sums of a recurring nature payable to Government and administrative charges inclusive of cost of collection, allowance for bad debts, cost debitable for land records and settlement on the following scale:—

(a) on the first 5,000 of gross income	20%
(b) on the next 5,000 of gross income	25%
(c) on the next 10,000 of gross income	35%
(d) on the next 30,000 of gross income	50%
(e) on the next 20,000 of gross income	65%
(f) on the next 30,000 of gross income	75%

However, in no case the net income is to be computed at a figure less than 40% of the gross income. The compensation payable to a jagirdar is ten times the net income of a jagirdar, so calculated. The zamindar is also entitled to receive compensation from the jagirdar (estate-holder) out of the amount payable to the latter. In his case, the compensation payable is ten times the net income calculated according to the Third Schedule to the Act.

The amount of compensation is to be determined by the Jagir Commissioner. After determining the total compensation on the basis of the net income as detailed above, he has to deduct therefrom.

- (a) maintenance allowance payable out of the jagir income,
- (b) compensation payable to the zamindar,
- (c) other amounts payable to co-sharers, and
- (d) debts due to Government by the jagirdar.

The balance or surplus is payable to the jagirdar in fifteen equal annual instalments or at the option of the jagirdar in thirty equal half-yearly instalments. As the compensation is payable with effect from the date of resumption of the jagirs, it is to carry interest at 2½% from that date upto the date of

payment. In the event of the death of a jagirdar, the balance is payable to his legal representative. These compensation provisions are less liberal in the context of the recommendations of the Venkatachar Committee, which had suggested higher compensation for the smaller and poorer jagirdars. Provision has been made for payment of interim compensation at 1/10th of the estimated amount of compensation if it is not determined within one year of resumption.

The *Madhya Bharat* Abolition of Jagirs Act follows the provisions of compensation of the Rajasthan Act with some difference. The compensation is payable on a sliding scale. At first, the gross income of the jagirdar is ascertained. It includes rent payable by tenants or shikmis holding khud-kasht lands on the ryotwari system, rent payable in cash by tenants and shikmis holding khud-kasht lands on the zamindari system, forest revenues, quarry dues, excise compensation, giras-tanka, dami, sewai-jama-income. The *net income* of a jagirdar is calculated by deducting from the gross income

- (1) tanka payable to Government,
- (2) an amount equal to 10% of the gross income where it exceeds Rs. 2,000 or an amount equal to 70% of the gross income in other cases, on account of cost of collecting rents,
- (3) an amount equal to 12½% of gross income on account of land records and chowkidari establishment, and
- (4) an amount equal to 10 to 15% of the gross income in the case of a jagir other than a Jadid Usul or Devasthanani jagir.

In addition to the above deductions, in the case of jagirdars enjoying power before the 15th May 1948, further deductions are made from the gross income as under:—

- (a) an amount equal to 7% of the gross income for police powers,
- (b) 4% for the revenue powers,
- (c) 2% for the judicial powers.

However, on account of the above deductions, the total amount to be deducted from the gross income is not to exceed

- | | |
|----------------------|--|
| (a) 5% of his income | if the basic income does not exceed Rs. 2,000 |
| (b) 10% " " " | if it exceeds Rs. 2,000 but does not exceed Rs. 5,000 |
| (c) 20% " " " | if it exceeds Rs. 5,000 but does not exceed Rs. 10,000, |
| (d) 30% " " " | if it exceeds Rs. 10,000 but does not exceed Rs. 25,000, |
| (e) 40% " " " | if it exceeds Rs. 25,000 but does not exceed Rs. 40,000, |
| (f) 50% " " " | if it exceeds Rs. 40,000. |

Government has however reserved its right to exclude devasthanis and other jagirs from these deductions.

The Jagir Commissioner has to determine the amount of compensation payable to the jagirdar, which is fixed at seven times his net income. Out of this net income, the Commissioner will pay (1) maintenance allowance, (2) a portion of compensation which a zamindar is entitled to receive and (3) an amount payable to a co-sharer. The amount of compensation to a jagirdar and a zamindar created by him is payable in ten annual equal instalments. Provision has been made to make interim payment at 1/10th of the estimated amount of compensation, if compensation is not determined within one year from the date of resumption.

The *Hyderabad* Act has an entirely different pattern. It provides for the appointment of a Jagir Administrator. From the jagir income, he has to deduct the expenses of administration on a sliding scale ranging from 25% to 58 1/3% for the income varying from Rs. 25,000 to Rs. 5 lakhs or more. Out of the balance, he makes payments according to the classification of jagirs as follows:—

<i>Class of jagir.</i>	<i>Amount payable as compensation</i>
(1) Jagirs in which a jagirdar exists and is entitled under the existing law to receive the haq-e-intazam,	(1) a sum equal to half the haq-e-intazam to the jagirdar and a like sum may be distributed amongst the hissedars.

<i>Class of jagir.</i>	<i>Amount payable as compensation</i>
(2) Jagirs in which a jagirdar exists but is not entitled under the existing law to receive the haq-e-intazam,	(2) a sum equivalent to the haq-e-intazam is to be distributed between the jagirdar and hissedars in proportions fixed under the law.
(3) Jagirs where the death of a jagirdar was not followed by the appointment of a jagirdar before the commencement of this Regulation,	(3) a sum equivalent to the haq-e-intazam to be distributed between the hissedars including the heirs of a jagirdar in proportions already fixed.
(4) Jagirs in which a jagirdar dies before the commencement of the Regulation,	(4) a sum equivalent to haq-e-intazam is to be distributed between hissedars including the heirs of the deceased in proportions already fixed.

From the net income payable as above, the amount on account of maintenance allowance is payable pro rata to the dependants. The amounts payable to jagirdars and hissedars under the Regulation are deemed as interim maintenance allowances payable until such time as the terms for the commutation of jagirs are determined. In the case of a jagir other than a Paiga, the net income is to be distributed between the jagirdar and hissedars in proportions fixed under the law. In the case of the Paiga, however, 2/5th of the net income is payable to the Amir-e-Paiga and the remaining 2/5th is to be distributed amongst the hissedars according to their shares. The Hyderabad Jagirs (Commutation) Regulation, 1950 was passed with a view to terminating the interim allowances payable under the Jagiri Abolition Regulation, 1949 and for determining the terms of commutation. Accordingly, the commutation amount payable to jagirdars and hissedars is based on the audited figures of 10 years' gross revenue from 1938 to 1947. The said amount is arrived at by multiplying the 'basic

annual revenue' by a figure varying from 10 to 30 according as the said revenue was more than Rs. 2 lakhs or Rs. 2,000 or less.. The commutation sum will be of the order of Rs. 18 crores.* The compensation is payable in 10 or 20 equal annual instalments according to the quantum of commutation amounts or annual revenue.

The *Bombay Act* has an entirely different pattern and sticks to the scheme of compensation adopted in the *Bombay Taluqdari Tenure Abolition Act, 1949* and the *Matadari Tenure Abolition Act, 1953*, respectively, for the proprietary and non-proprietary jagirs. In the case of the proprietary jagirs, for vesting waste lands in Government, a sum equal to three times the assessment of the lands is payable. For vesting roads, lanes or paths, etc., only one time the assessment is payable as compensation. For vesting building, trees, etc., the market value thereof as calculated under sections 23(1) and 24 of the *Land Acquisition Act, 1894* is payable. In addition, such jagirdars are entitled to compensation at the rate of three times the average of the amount of land revenue received by them from permanent holders. In the case of the non-proprietary jagirs, an amount equal to three times the annual revenues realized by them is to be paid as compensation. In the case of the life-time *jiwai jagirs*, compensation is payable at ten times the average of land revenue received or due to the jagirdar during five years immediately before the coming into force of the Act. The Act is conspicuous by the absence of any provision for maintenance allowance or interim payment in the case of delay in determining compensation.

The *Saurashtra Act* blazes a new trail in the pattern of compensation provisions. This has become possible because the *Barkhalidars* had no proprietary interests or rights in the *jagiri villages*. Consequent upon the abolition of the *Barkhali tenure*, the *Barkhalidars* are paid cash annuity, which is equal to one assessment in respect of the lands in possession of their tenants. If a *Barkhalidar* has one or more villages, the cash

* The Hyderabad Govt. Bulletin on Economic Affairs, Sept. 1952, p. 417.

annuity is payable for 15 years. If the holding is less than one village, it is payable for 18 years. In the Saurashtra Land Reforms Act, 1951, the payment of compensation to the Giras-dars is made by the tenants. Unlike that Act, this Act provides that Government should pay cash annuity equal to one assessment for 15 or 18 years, and this will be the assessment which will be received by the State from the tenants. Thus, the payment of compensation is alleged to be no direct burden to the State except in the matter of development expenses and suspension or remission of land revenue during periods of scarcity or famine. Although the payment is not a direct burden to the State, it is quite evident that for 15 or 18 years, the State will not receive assessment in respect of the villages and lands held by the former tenants. The amount is therefore payable out of the legitimate land revenue realizable by the State. It is estimated that 3,50,000 acres are the aggregate area of lands in possession of tenants of Barkhalidars of which they have become occupants and in respect of which the Barkhalidars are to be paid cash annuity. The total amount of assessment realizable by Government during 21 years will be of the order of Rs. 2,44,38,751. On this basis, the total amount of cash annuity payable to the Barkhalidars is estimated at Rs. 2,16,82,500, with the result that there will be a net gain of Rs. 27,56,250 during the period of 21 years. The Barkhalidars have to pay to Government assessment (land revenue) to the tune of Rs. 38,34,375 during the period of 21 years.

The *Bhopal Jagiri Abolition Committee* appointed by the Government of India recommended payment of compensation to hereditary jagirdars in lump sum on a sliding scale and in cash grants to the holders of the life-tenure jagirs during their life-time.*

In the Act, the perpetual and life grants are treated differently. In the case of the former, the compensation is provided on a sliding scale ranging from 15 to 6 times the annual income; whereas in the case of the latter, the multiple varies from 10 to 4 times, as set forth below.

<i>Net income</i>		<i>Multiples payable as compensation</i>
(1) Upto	Rs. 1,000	10 times
(2) Exceeding upto	Rs. 1,000 and Rs. 2,000	8 „
(3) Exceeding upto	Rs. 2,000 and Rs. 7,000	6 „
(4) Exceeding upto	Rs. 7,000 and Rs. 10,000	5 „
(5) Exceeding	Rs. 10,000	4 „

It is payable in annual instalments not exceeding 15 in number. The total amount of compensation will vary from Rs. 35 to Rs. 45 lakhs. The abolition of the jagirs is estimated to yield to Government an additional net annual income from Rs. 8 to 10 lakhs.

As regards compensation in *Vindhya Pradesh*, the gross income of the jagirdar is to be first determined. The gross income includes rents, sayar income from *hats*, bazaars, etc., income from forests calculated at an average of 20 agricultural years, royalties on account of mines and minerals. In order to arrive at the net income, deductions are made from the gross income of any sum payable to Government, agricultural income-tax, an amount equal to 2% of the gross income in lieu of 'Sewa' (service) to the Ruler (now the State). The amount of compensation is based on the *net income* so calculated. It is according to the scale set forth below:—

<i>Net income of a Jagir</i>	<i>Multiple of net income payable as compensation</i>
(1) Upto Rs. 1,000 ... ..	...15 times.
(2) Exceeds Rs. 1,000 but does not exceed Rs. 5,000 ...	...12 times, but not less than the maximum payable under (1) above.
(3) Exceeds Rs. 5,000 ... ..	...10 times, but not less than the maximum payable under (2) above.

But there is a novel provision to the effect that if the *sir* or *khud-khasht* land allotted to a jagirdar exceeds 10% of the cultivated area of jagir land, the multiple of the net income for calculating the amount of compensation is to be reduced by one; but if it exceeds 20% of the cultivated area, the multiple of net income for calculating the same is to be reduced by two. A

thekadars are also entitled to compensation, if he had any interests in the jagir land. Compensation is payable from the date of resumption at a simple interest of $3\frac{1}{2}\%$ up to the date of payment. Amounts of maintenance allowance, shares of co-sharers and arrears of Government dues are deductible from the amounts of compensation payable to the jagirdars. Interim compensation at $1/10$ th of the estimated amount is payable in case compensation is not determined within a period of nine months. Such interim compensation is to be paid within 18 months from the date of resumption. The total liability on account of the compensation is estimated at Rs. 199 lakhs and the net annual increase in land revenue payable to Government at Rs. 26 lakhs per annum.*

8. *Debt Settlement.*

Most of the Acts provide machinery for the settlement of the debts of the jagirdars. Obviously, such a provision cannot be expected in the Jammu and Kashmir State reforms. The Rajasthan Act provides that the debts due by the Jagirdars either to Government or any other person shall be recoverable from the compensation payable to them. Similar provision is found in section 14 of the Madhya Bharat Act. The Hyderabad Regulation does not affect the liabilities incurred by the jagirdars. Under the Hyderabad Jagirdar's Debt Settlement Act, 1952, a Debt Settlement Board has been appointed for inquiry into and settlement of the debts of the Jagirdars in that State. The *Bombay* Act does not provide for the debt settlement, presumably because in other Acts like the Bombay Taluqdari Tenure Abolition Act, the Bombay Personal Inams Abolition Act and the Bombay Saranjams Jahagirs and other Inams of Political nature, Resumption Rules, 1952, Government has not taken that responsibility and it would therefore perhaps be invidious to do so in the case of the jagirdars alone.

9. *Procedural peculiarities.*

In Kashmir, the jagirs, Muafis and Mukarraris are abolished not by legislation but by the State Order of April 1948. So,

there is no information whether any special officer or machinery or forum of appeal was created for implementation of that order. In Rajasthan and Madhya Bharat, a special Jagir Commissioner is created by the Acts for their administration. Appeals from the orders of the said Commissioner or the Collector lie to the Special Board consisting of 2 persons whose decision is final. In Hyderabad, a Jagir Administrator was appointed for administration of the Regulation and appeals against his orders lay to Government or any officer appointed by Government. The Bombay Act does not provide for any special officer but the Collector or any officer authorized by Government is made responsible for implementation of the Act. Appeals against the Collector's orders lie to the Bombay Revenue Tribunal. In the Saurashtra Act, provision has been made for appointment of a Settlement Commissioner and Special Officers. The appeal lies to the Saurashtra Revenue Tribunal created under the Saurashtra Revenue Tribunal Ordinance, 1949. The Tribunal's decisions in Bombay and Saurashtra are final.

In short, none of the Acts provides for appeal to the Civil Court. Thus, in the matter of deciding claims to compensation, the Civil Courts have no jurisdiction.

10. *Financial implications.*

The land reforms are an aid to taxation with the result that the financial implications of the laws assume very serious importance. As the jagirs in the Jammu and Kashmir have been resumed without compensation, there has been a net gain to Government on that score. As regards other States, Government has accepted the liability to pay compensation to the jagirdars and their co-sharers. Besides, each State has to make alternative administrative arrangements in the shape of appointment of additional staff, introduction of survey and settlement and Record of Rights, etc. The data about probable expenditure on account of these administrative arrangements made and to be made in the wake of the abolition of jagirs are not available. But the amounts of compensation payable to jagirdars of different States are as follows:—

—	Amount of compensation payable to jagirdars (in lakhs of rupees)	Net increase in land revenue of the State per year. (in lakhs of rupees)
Jammu & Kashmir ...	Nil.	7
Rajasthan ...	not available	100
Madhya Bharat ...	387*	15†
Hyderabad ...	1800‡	350
Saurashtra ...	217	27½ (during 21 years)
Bombay ...	112½	47
Bhopal ...	35 to 45 §	8 to 10§
Vindhya Pradesh ...	199	26**
Total	2760½	582½

From the statistical data available, it is clear that the jagiri abolition in any State, be it Vindhya Pradesh or Rajasthan, will be beneficial to the State. In the initial stages, Government will have to incur expenditure on making alternative administrative arrangements but within a period of 5 to 10 years, the cost so incurred will be covered up by the additional net revenue yields to Government. Apart from abolishing the intermediaries, their abolition would bring additional substantial stable revenue to Government. And this fact is quite obvious from the statistical information set forth above. Recently, Government of India has adopted a uniform policy of paying compensation in transferable bonds carrying interest at 3% and redeemable during a period of 20 years in equated annual instalments of principal and interest. As a result, payment of the amounts of compensation would be spread over 20 years. This method of payment is expected to check inflation and provide for itself a sinking fund.

H. D. Malaviya : Land Reforms in India, p. 323.

† Report of the Rajasthan-Madhya Bharat Jagir Enquiry Committee, p. 52.

‡ Agricultural Situation in India : October 1950.

§ The Times of India of 4-8-1953.

** Agricultural Situation in India : April 1953.

10. *Implementation.*

After passing land reforms legislation, the most important thing to be done is its quick implementation. There should be no time-lag between the passing of a law and its enforcement. We have seen in the Chapter on "Implementation of the Land Reforms" that the tenurial holders were very quick to take advantage of any delay in the enforcement. As a result, this aspect of the problem becomes all the more important.

We have seen that the jagiri abolition has already been completed in Jammu and Kashmir. In Hyderabad, the Jagiri Abolition Regulation was brought into force with effect from the 15th August 1949. Press reports indicate that the commutation sums are being distributed amongst the jagirdars and estate holders numbering more than 10,000 persons. The major portion is being paid in cash and the remainder in Government security bonds. Interim payment of compensation is going on. In *Madhya Bharat*, the jagirs have been resumed with effect from the 4th December 1952. The Rajasthan Act has been enforced with effect from February 1952 and 16th September 1952. As 60% of the jagirs is at present unsurveyed, the resumption of the jagirs of necessity has to proceed by stages, particularly because there are no means of determining the gross rental incomes of these jagirs. About 490 settled jagirs with incomes above Rs. 5000 have been resumed under the Act. The implementation of the Act in Madhya Pradesh has been delayed because the jagirdars challenged the validity of the Act. This point is discussed separately below. In *Rajasthan* however, the jagirdars are all powerful and seem to take advantage of the fluid political conditions in the State. According to press reports, negotiations are going on between Government and the Jagirdars over the questions of (a) the quantum of compensation, and (b) the manner in which the net annual income is to be computed. The Prime Minister deputed Shri Govind Vallabh Pant to mediate between the Rajasthan Jagirdars and the State Congress for settlement of the jagirdars' claims. Pandit Pant rejected the jagirdars' plea for payment of 50% of the total compensation in cash and did not make any hard and fast recommendation for allotment of khud-kasht lands which might result in eviction of tenants. But he suggested

that the administrative charges to be deducted from the gross compensation should not exceed 50% in any circumstances. This would result in an increase in the quantum of compensation payable to the jagirdars. The jagirdars are however not satisfied by the award because their basic demands for khud-kasht lands and 50% cash compensation have been turned down. On the basis of Pandit Pant's award, Shri Nehru gave his award on November 27, 1953, which has been accepted by the representatives of the jagirdars. The main points of the award are as under :—

- (a) As regards the jagirdars' request for payment of half of the compensation in the first instalment and the balance in ten half-yearly instalments in negotiable bonds, Shri Nehru has declared that "This is not a matter of principle but of finance and resources." So, he has recommended payment of a sum upto 10% as the first instalment.
- (b) All lands, which were in continuous personal cultivation of the jagirdars upto the year 1948 and from which the jagirdars have been unable to eject their tenants because of the Rajasthan Protection of Tenants Ordinance, 1949, should be restored to the jagirdars for personal cultivation. But this concession should not be extended to other lands held by tenants for a long time.
- (c) Compensation to the jagirdars should take into account the improvements which have resulted in higher rates from irrigated lands.

Consequent upon the Nehru award, the Rajasthan Government has undertaken legislation to amend the Rajasthan Land Reforms and Resumption of Jagirs Act in order to bring within its purview jagir lands upto an income of Rs. 5,000 which were exempted from the resumption under the said Act.

In Saurashtra, the *Barkhali* tenure has been abolished and the villages resumed by Government. The work of implementation has been completed, to all intents and purposes. In *Vindhya Pradesh*, 94 jagirs have been taken over on the 2nd July 1953 and the jagirdars have been asked to apply for com-

pensation within two months. Lastly, in Bombay, the Bill to abolish the jagirs in the merged areas has been passed in the 1953 autumn session of the State Legislature, and awaits the Presidential assent.

As regards the *Madhya Bharat* Act, the jagirdars challenged the validity of the Act in the High Court. On the day, the State Government issued a notification vesting all the jagirs in the State, the Madhya Bharat High Court declared that the Act was valid with the exception of section 4(1)(g) and sub-clauses (iv) and (v) of clause 4 of Schedule I, which were declared illegal and inoperative. Section 4(1)(g) provided that the right, title and interests of jagirdars to all buildings on jagiri lands used for schools, offices, hospitals or other public purposes would be extinguished and the buildings would be transferred to Government. Sub-clause (iv) of clause 4 of the Schedule I provided for deductions on account of education, public health, and roads amounting to 15% of the gross income if it exceeded Rs. 2000 or 10% of the gross income in other cases. Similarly, under sub-clause (v) of clause 4 of the said Schedule, deductions amounting to 7, 4 and 2% of the gross income were to be made in computing compensation in the case of a jagirdar who exercised before May 15, 1948, police, revenue and judicial powers. As these provisions were declared illegal, the Jagirdars sought permission to appeal to the Supreme Court, which was given. But the final result is not known.

In *Bhopal*, 47 jagirdars have applied to Government for voluntary termination of their jagirs against grant of cash annuities. This means that jagirs with an annual income of Rs. 5 lakhs would be resumed with the consent of the jagirdars. This is the first State in India in which voluntary surrender has been effected.

The validity of the Vindhya Pradesh Abolition of Jagirs and Land Reforms Act, 1952 was challenged by the Jagirdars and Pawaidars. The Judicial Commissioner declared the Act valid and constitutional as a whole excepting its three sections 22, 37 and 4(c) on the grounds

- (a) that the three-year test under section 22 was a bad piece of legislation;
- (b) that the provisions of section 37 were repugnant to the existing parliamentary law in section 7 of the Criminal Procedure Code; and
- (c) that section 4(C) led to the result of offering no compensation for separate and independent items of interest in property.

The latest position in implementation of the Act is that the V.P. Government has taken over all the Jagirs with an annual gross income between Rs. 1,000 and Rs. 5,000 and that the jagirdars have been directed not to exercise proprietary rights over the Jagirs now vested in the State.

11. *Socio-economic effects.*

The effects on the jagirdars would be disastrous, if they have not read the writings on the wall. But the merger and integration of the Princely Order has taught them to look to their socio-economic future and not rest on their oars. As stated above, the jagirs were generally assignments of land revenue and the jagirdars had no right to the soil. With the abolition of jagirs, this income, which they used to receive has been stopped or is in the course of being stopped. In order to make the change-over as smooth as possible, the laws provide for interim payment of compensation, debt settlement, maintenance allowance to dependants, gharkhed lands, etc. But in the nature of things, these provisions are palliative and not permanent. The jagirdars cannot expect Government to provide them permanently with income for their livelihood. In the altered circumstances, the Jagirdars and zamindars created by them have to find out suitable avenues of employment for themselves. The laws do not provide for employment or finding employment for the jagirdars. Since this is a huge problem particularly at a time when the ghost of unemployment is stalking the country, Government has contented itself by providing temporary relief, leaving the jagirdars and their dependants to fend for themselves for their future.

12. *Criticism and suggestions.*

The criticism offered here is not made in a carping but purely constructive spirit so as to expedite land reforms in the efficient manner in which they have been conceived by the State Governments. To a casual reader of the jagir abolition laws, it would appear that except in Bombay, all the jagirs are not taken over with effect from the enforcement of the laws; but provisions have been to take them over by stages by issuing separate notifications in the official gazette. Time limits for taking over the jagirs are not fixed with the result that the process of resumption of jagirs may go on for years during which the jagirdars might adopt measures for thwarting the provisions of those laws. When the feudal relics are abolished, there seems no point in retaining some as has been done in the case of Rajasthan jagirs having an annual income of below Rs. 5000. In view of these considerations, necessary provisions should be made in the laws to take over the jagirs immediately from the coming into force of the laws and, if at all it is found necessary for administrative reasons to resume them by stages, a definite time-limit for resuming the last jagir should be provided.

Although all these Acts have the common aim of abolishing the jagirs, there is no uniformity in the provisions for achieving the same. To begin with, some Acts provide for conferment of occupancy or proprietary rights on the tenants; but the occupancy price payable to the landlord or Government differs in each Act. In Jammu and Kashmir, such rights are conferred without charging any price. In Rajasthan, tenants have to pay 10 times the rental, whereas in Madhya Bharat, the price varies from 2 to 8 times the net annual income of a tenant. Bombay and Saurashtra lay down the occupancy price at 6 times the assessment of the land. It seems that different prices have been prescribed, having regard to the past history of revenue administration.

Unfortunately, there is also no uniformity in the provisions relating to the basis and rates of compensation payable to the jagirdars. In Rajasthan, Bhopal, Vindhya Pradesh and Madhya Bharat, the "net income" is adopted as a basis for computing the compensation; the Hyderabad Regulation adopts

the "basic annual revenue" for the purpose. The Bombay legislation harks back to the provisions of the Bombay Taluqdari Tenure Abolition Act, 1949 and the Bombay Matadari Tenure Abolition Act, 1953. Accordingly, there is no uniform basis adopted; but the quantum of compensation varies according to the nature of the property resumed or the right modified or extinguished. In the case of non-proprietary jagirs, which were mere assignments of revenue, the quantum has been fixed at three times the average revenues realised by the jagirdars during the last 3 or 5 years. When we compare the quantum of compensation provided in the Rajasthan (10 times the net income), Madhya Bharat (8 times the net income), Saurashtra (15 or 18 times the assessment), the Jagirdars of Bombay might feel the difference in compensation. Apart from the diversity in the quantum of compensation, one might legitimately ask why there are different quanta of compensation at ten and eight times the annual net income respectively in the case of the jagirdars of Rajasthan and Madhya Bharat, when the rights and responsibilities of the jagirdars of both the States are quite similar. The fluid nature of the Rajasthan politics seems to be the reason for liberalizing the quantum of compensation. The Saurashtra Government is reported to have completed the implementation of its Act without a direct burden to its exchequer for payment of compensation.* Cash annuities are paid to the Barkhalidars for a period of 15 or 18 years from the amounts of assessment received from the former tenants of the Barkhalidars. This means that what the tenants would have paid to Government by way of assessment is paid to the Barkhalidars through Government in the form of annuities. It is thus clear that Government will not get any land revenue from these tenants for 15 or 18 years. This is a distinct loss to the public fisc for that period. Obviously, this is a direct burden to Government and no amount of circumlocution can disguise this patent fact.

Besides, there is no uniformity in the method of payment of compensation. The compensation inquiries, in the nature of things, take some time to be completed. The procedure involved

* B. R. Patel, Land Reforms in Saurashtra, the Indian Journal of Agricultural Economics, March 1953, p. 171.

in those inquiries entails some delay. Further, where the villages are unsurveyed and unsettled, the difficulties in computing the gross income and consequently the net income of the jagir are quite patent. All these circumstances contribute to the delay in the final award of compensation. As a result, there is bound to be some time lag between the enforcement of the legislation and award of compensation. These reasons point to the need of making interim payment of compensation on an ad hoc basis of some portion of the estimated amount of the compensation. The necessity is much greater because the jagirdars, who banked upon their jagir revenues for generations past, cease to derive the same and are rudely awakened to the necessity of earning their livelihood. The Madhya Bharat, Rajasthan and Hyderabad laws have provided for interim payment of compensation. But there is no analogous provision in the Bombay legislation presumably because of its previous history of the land reforms in the State. In Saurashtra, there seems no need for such a provision because of its peculiar pattern of compensation. The Vindhya Pradesh Act provides for interim payment of compensation. We have no knowledge of the provisions of the legislation in Bhopal.

Apart from the interim payment of compensation, there is no uniformity in the method and manner of payment. Rajasthan pays compensation in 15 equal annual instalments or at the option of the jagirdar in 30 equal half-yearly instalments. In Madhya Bharat, it is to be paid in 10 equal annual instalments. In Hyderabad, it is payable in 10 or 20 equal annual instalments according to the commutation value. Saurashtra pays cash annuity in 15 or 18 instalments. The Bombay legislation is definite and provides for payment of compensation in transferable bonds bearing 3% interest and redeemable during a period of 20 years in equated annual instalments of principal and interest. Bhopal provides payment of compensation in annual instalments not exceeding 15 and cash annuities (mansabs) for the life-time of the jagirdars. In Vindhya Pradesh, compensation is payable in annual instalments not exceeding ten. Thus, there is a strange diversity in the manner and method of payment of compensation.

As regards the provision for the khudkhast lands of the jagirdars, the Bombay and the Madhya Bharat Acts and the Hyderabad Regulation do not affect the lands in personal cultivation of jagirdars. But they do not fix the limit for holding a particular area of the home farms. Some shrewd jagirdars as in Bombay and Rajasthan might have brought under cultivation vast areas, which may remain unaffected by the laws. But many, who have not thought likewise, are left practically with no gharkhed lands. These two laws do not provide for allotment of gharkhed lands to the jagirdars, as has been done in the case of the laws of Saurashtra, Rajasthan and Madhya Bharat. The Rajasthan Act and the Hyderabad Regulation fix the ceilings for khudkhast lands at 500 acres. The Bhopal and Vindhya Pradesh Acts fix the maximum kharkhed lands at 75 and 250 acres, respectively. The Saurashtra Act fixes the ceiling at three economic holdings. One economic holding consists of 32 acres throughout that State subject to local variations according to the agronomic conditions of the different parts of the State, i.e. 100 acres as the maximum. In order to make the change-over smooth, one would not object to the allotment of lands to the jagirdars for personal cultivation. But when the Acts provide for allotment of lands by dispossessing or evicting the tenants, one is set a-thinking whether the land reforms are really progressive. Press reports state that in allotment of khudkhast lands to the jagirdars in the Sikar district of Rajasthan, 3 tenants are killed and ten injured during a scuffle between the Bhomia jagirdars and tenants.* Similar trouble had arisen in Saurashtra in 1950-51. It is estimated that the total number of evictions for allotting home farms would be 4,800.† In extenuation, one may say that the political and agronomic conditions of the States dictated these provisions. Whatever may have been the reasons underlying them, it is clear that they are retrograde and meant to placate the powerful jagirdars. Besides, the ceiling of 500 acres is obviously excessive and when Governments adopt measures to break the concentrated large land-holdings, they should think twice before creating new large holdings in the

* The Times of India : 10th July 1953.

† Report of Saurashtra Agrarian Reforms Committee, p. 86.

hands of a few. The maximum home-farm area should be reduced so that the surplus area may be available for the landless and those persons having uneconomic holdings. In this matter, the Government of India should lay down a uniform policy for all the States of India.

On liquidation of the jagirs, the settlement of the jagirdars' debts becomes imminent. Barring a few exceptions, the jagirdars as a race lived beyond their means because of the uninterrupted flow of income from their jagirs. As a result, a very few jagirdars are found to be free from debt. They require to be helped out of their indebtedness by some machinery. In the case of the land-holders covered by the Bombay Tenancy and Agricultural Lands Act, 1948, adequate provisions have been made for liquidation of their debts. It is not clear why similar provisions have not been made in the Bombay Jagiri Abolition legislation. In such matters, Madhya Bharat, Rajasthan and Hyderabad have clearly given a lead to other States.

It must be confessed that provisions for payment of compensation, maintenance allowance, debt settlement, allotment of home-farms are not enough for enabling jagirdars to make their living, particularly in the case of the small or low-income jagirdars. They stand in dire need of rehabilitation by grant of temporary loans. Like the Zamindari abolition laws, the jagiri abolition laws make no provision for rehabilitation grants. Low-income jagirdars do need such aid in order to tide over the difficulties during the transitional period.

From the foregoing criticism, it is crystal clear that the Rajasthan Act is too tender and errs on the side of liberality. Consequently, it is alleged that it is "drastic only in its extreme mildness towards the archaic feudal order" and "might as well have been drafted by the Jagirdars' Association." Perhaps the political conditions are largely responsible for the peculiar pattern of the Act. The similar Acts in Madhya Bharat, Hyderabad, Bombay, Bhopal and Vindhya Pradesh are more realistic. The Bombay legislation sticks largely to its old pattern of provisions for the sake of consistency.

We clamoured for the liquidation of the jagirs as feudal relics and the Legislatures have abolished them. We have witnessed the jagirdars' downfall and disappearance; but we have yet to see their resuscitation as a virile section of the Society.*

* One small piece of legislation which abolished certain jagirs in Madhya Pradesh may be noticed here. The land revenue exemptions enjoyed by the holders of the maufis, inams and jagirs were revoked by Government under the Central Provinces and Berar Revocation of Land Revenue Exemptions Act, 1948. Such estates, mahals, village or lands *in the Central Provinces* are made subject to the payment of land revenue equal to the amount of Kamil-Jama as revised by the C. P. Revision of the Land Revenue of Estates Act, 1947 or by the C. P. Revision of the Land Revenue of Mahals Act, 1947, as the case may be. Such properties *in Berar* are made liable to payment of land revenue equal to fair assessment made under section 96 of the Code.

The Act provides for awards of money grants or pension to persons who are adversely affected by the revocation of the land revenue exemption. The State Government is empowered to make a grant of money or pension (a) for the maintenance or upkeep of any religious, charitable or public institution or service of a like nature or (b) for a suitable maintenance of any family of a descendant of a former ruling Chief. The award by the State Government is final, as the jurisdiction of the civil courts is barred. Lastly, the power to grant exemptions of land revenue is retained in the State Government under the Act.

It is contended that the jagirs and maufis are abolished without payment of compensation. If this is so, the provision made in section 5 of the Act for the award of money grants or pensions is not understandable.

CHAPTER XIX

THE ZAMINDARI ABOLITION

1. *Introduction.*

By now, the abolition of the Zamindaris in India in whatever form or stage is a settled fact and no argument is required to prove its necessity or urgency. The Five Year Plan proceeds on this assumption, when it states that 'The abolition of intermediary rights has been the major achievement in the field of land reform during the past few years'.* The State Governments have abolished the zamindaris by undertaking special legislation in pursuance of the Congress Manifesto of 1945† which was in itself the result of the leftist movement for abolition of the zamindaris in the thirties of this century and the Kisan movements in U.P., Bihar, Orissa, etc. The Bengal Land Revenue Commission (1940) came to the conclusion that "whatever may have been the justification for the Permanent Settlement in 1793, it is no longer suited to the conditions of the present time... and that the zamindari system has developed so many defects that it has ceased to serve any national interest".‡ The London *Economist* wrote that "the most creditable products of Zamindari have been Rabin-dranath Tagore, the poet, Liaquat Ali Khan, the Prime Minister and the Maharaj Kumar of Vizianagram, the cricketer..... The majority have been as vicious, as Thackeray's Lord Steyne, as idle as Jane Austen's Mr. Bennett and as drunken as a Surtee's squire."§ Having regard to the administrative convenience and the Government claims to land revenue, the balance of advantage has been in favour of abolition of the Zamindaris. The Bengal Commission's recommendations sealed the fate of the zamindari not only in Bengal but in other States as well.

* The Five Year Plan : p. 185.

(†) "The reform of the land system which is so urgently needed in India involves the removal of intermediaries between the peasant and the State. The rights of such intermediaries should, therefore, be acquired on payment of equitable compensation."

‡ Report of the Bengal Land Revenue Commission (1940), p. 42.

§ The London *Economist* quoted by the *Time* of 14th June, 1952.

Although the zamindari abolition has become a settled fact, the expression in common parlance means abolition of the zamindari, mahalwari, malguzari and biswedari systems of land revenue and conversion of all cultivating tenants into peasant proprietors by conferring proprietary rights on them. The main objective aimed at is that the actual tiller of the soil should have a permanent stake in the land he cultivates and that he should be brought into direct contact with Government in order to prevent rack-renting, oppression, forced labour, etc. But as evidenced from the laws passed by various States, the movement does not envisage re-distribution of lands on a systematic basis to settle the landless and agricultural labourers. In the circumstances, the zamindari abolition is understood in this restricted sense.

2. *Land Revenue Systems in India.*

In order to appreciate the zamindari abolition laws, it is necessary to review very briefly the different zamindari systems of land revenue as they obtained in the different States and are abolished or are in the process of abolition. This becomes essential in view of a variety of the land systems prevailing in each State. It may be stated without any fear of contradiction that there might be hardly any State, which had one uniform system of land revenue. Even where the system was predominantly ryotwari like that in Bombay, it was encumbered by a maze of special land and inam tenures* which substantially cut down the State revenues, not to mention the administrative problems created by them.

The land systems may be classified as follows:—

- (1) the permanently settled estates,
- (2) the temporarily settled estates, and
- (3) the ryotwari system.

It is well known that these systems originated in the different types of land revenue settlements made in the 18th and 19th centuries by the British. In the case of the first category, the land revenue payable to the State was fixed in perpetuity; whereas in the two latter systems, the land revenue

* Bhagdari, Narwadari, Talukdari, Khoti, Ankadia, Matadari, Mulgiras, Salami, Saranjam, personal, pargana and Kulkarni watans, etc.

demand was (is) subject to periodic revision. Apart from the fixed or fluctuating character of the land settlements, a marked difference was found as regards the persons liable to pay the land revenue. In the first category, the Zamindar was liable to pay the Government demand, in the second, the proprietor of the mahal or an estate and, in the third, the ryot (an individual) holding land. In short, the determination of the Government demand and the liability to pay land revenue were the two principal factors which were responsible for creation of different systems in India. It is well known that behind these settlements by the British, there were the overriding considerations of political expediency and Government's anxiety for securing stable land revenue in those unsettled days.

To take the ryotwari system first, it is found in Bombay, Berar, Madras (southern 2/3rds), Mysore, Hyderabad, Assam (a portion), Coorg, Madhya Bharat (half: Indore and other States), Jammu and Kashmir.

In the temporarily settled estates, there were different land systems such as the malguzari system in Madhya Pradesh (C.P. excluding Berar), and the mahalwari system in the Punjab, Agra and parts of Oudh. One-fourth part of Orissa had temporarily settled estates. In Pepsu, there was the biswedari system. The malguzari system was originally created by the Marathas and subsequently recognised by the British. The mahalwari and the biswedari systems were created by the British. The latter arose in Patiala just before the Mutiny.

As regards the permanently settled estates, which constituted the genuine zamindari system, it is well known that it was first introduced in Bengal by Cornwallis in 1793 with the laudable object of creating landlords on the English model. That system was subsequently introduced in the adjoining States of Bihar, Orissa (1/2), Assam, (Goalpara and Cachar), U.P., Madras (northern 1/3rd), Madhya Bharat (one-half: Gwalior), Rajasthan, Bhopal, Saurashtra. In Rajasthan and Bhopal, the Bengal model was not exactly followed; because the system which developed there was the outcome of political administration which required to be buttressed by vested interests. This fact created jagirs on an extensive scale. In

Saurashtra also, similar causes created the Girasdari system. In this chapter, we are concerned with the permanently and temporarily settled estates referred to above. The main objective of the zamindari abolition is conversion of those systems into the ryotwari ones and bringing the ryots into direct contact with Government as stated above.

3. *The Zamindari legislation.*

Wherever there was the zamindari problem, the State Governments adopted measures for abolition of the zamindaris by undertaking special legislation. The following laws have been enacted or are in the process of enactment in India*

1. The Assam State Acquisition of Zamindaris Act, 1951.
2. The West Bengal Estates Acquisition Act, 1953.
3. The U.P. Zamindari Abolition and Land Reforms Act, 1950.
4. The Bihar Land Reforms Act, 1950, as amended in 1953.
5. The Orissa Estates Abolition Act, 1951.
6. The Madhya Pradesh Abolition of Proprietary Rights (Estates, Mahals, Alienated Lands) Act, 1950.
7. The Madhya Bharat Zamindari Abolition Act, 1951.
8. The Punjab Abolition of Ala Malikiyat and Talukdari Rights Act, 1951.
9. The Pepsu Abolition of Ala Malikiyat Rights Act, 2009 Samvat.
10. The Madras Estates (Abolition and Conversion into Ryotwari) Act, 1948 as subsequently amended.
11. (a) The Saurashtra Land Reform Act, 1951.
(b) The Saurashtra Estates Acquisition Act, 1952.
12. The Jammu and Kashmir Abolition of the Big Landed Estates Act, 2007 and its amendment of 2008.
13. The Mysore (Personal and Miscellaneous) Inams Abolition Bill, 1953.
14. The Himachal Pradesh Abolition of Big Landed Estates and Land Reforms Bill, 1953.

* The Bombay laws relating to the abolition of the special land and inam tenures have already been dealt with in Part I of this book.

In the Zamindari abolition, the U.P. Act leads other States. Its provisions have been adopted in the Acts passed for abolition of the Zamindaris in Orissa, Madhya Pradesh, Madhya Bharat, Bihar, Bengal and Assam. Other States like Madras, Kashmir, Mysore and Saurashtra have their own patterns to meet special conditions of the areas. In order to have a clear conception of the zamindari abolition laws, it is proposed to consider them under the following sub-heads:—

1. Intermediaries.
2. Aims and objects.
3. Vestings, savings and consequences.
4. Management of estates and creation of land tenure.
5. Recognition or conferment of occupancy rights.
6. Assessment of compensation—
 - (a) basis of compensation,
 - (b) rates of compensation.
7. Payment of compensation—
 - (a) interim payment and their rates,
 - (b) aggregate amount of compensation payable in instalments.
8. Rehabilitation grants.
9. Debt settlement and maintenance allowance.
10. Implementation.

4. *Intermediaries.*

The object of the zamindari laws is to abolish the intermediaries between Government and the actual tiller of the soil. It is therefore of special interest to know what type of intermediaries existed in various States. The definitions of the terms 'intermediary' and 'estate' given in various Acts show a bewildering variety of intermediaries and estates in different States. In order to appreciate the complexity of the problem, these categories require to be understood in their proper perspective. This will also show what types of the intermediary interests existed and are extinguished under the special legislation.

In U.P., an intermediary means a proprietor, under-proprietor, sub-proprietor, thekadar, permanent lessee in Avadh and permanent tenure-holder of such estate. The expression

'estate' is not defined in the Act. The *Assam* Act defines three categories of the estates, viz.,

- (1) permanently settled estates under the permanent settlement between 1793 and 1869;
- (2) a Lakhiraj estate,*
- (3) 'acknowledged estate' means an estate in Bijni and Sidli Duars acknowledged by the State to be in possession of, and settled with the Rajas of Sidli and Bijni on a periodic basis.
- (4) a temporarily settled estate means an estate other than (1), (2) and (3).

Amongst the intermediaries, at the top, there is a proprietor holding any of the above estates, then comes the raiyat and below him, is an under-raiyat. The 'raiyat' means a person, who has acquired from a proprietor or a tenure-holder a right to hold land for the purpose of *cultivating it personally*. The under-raiyat means a person holding land immediately or mediately under a raiyat.

The *Bihar* Act defines only a proprietor or a tenure-holder. The proprietor is at the top and the tenure-holder is below him. The term means a person who has acquired from a proprietor or from any other tenure-holder a right to hold land for the purpose of collecting rent or bringing under cultivation by establishing tenants on it.

Amongst all the Acts, perhaps, the *Orissa* Act defines an "intermediary" very comprehensively. With reference to any estate, the term means a proprietor, a sub-proprietor, landlord, land-holder, malguzar, thekadar, gaontia, tenure-holder, under tenant-holder and includes the holder of inam estate, jagir and maufi tenures and all other holders of land between raiyat and the State. The expression "raiyat" has been defined as in the *Assam* Act. The *Bengal* Act defines an 'intermediary' practically on similar lines.

In *Madhya Pradesh*, a proprietor (i) in the Central Provinces, includes an inferior proprietor, a protected thekadar, or other thekadar or a protected headman and (ii) in the merged territories, means a mauftidar including an ex-Ruler of an Indian

* A Lakhiraj estate means an estate exempt from assessment under any grant made by the previous rulers and confirmed by the British.

State merged in Madhya Pradesh, a Zamindar, Ilaquedar, Khorposhdar or Jagirdar within the meaning of the *wajib-ul-arz* or any sanad, a *gaontia*, *thekadar*, etc., and (iii) in Berar, means a superior holder. The Act also defines a "specified tenant" as

- (i) an ante-alienation tenant,
- (ii) a permanent tenant, and
- (iii) a tenant of antiquity.

A proprietor in *Madhya Bharat* includes a *malguzar*. The term '*khud kasht*' is defined as land cultivated by the Zamindar himself or through employees or hired labourers and includes *sir* land. The definition of the *Pucca* tenant given in the Act is not clear. But it has the attributes of an occupant in Bombay.

In *Madras*, there are three types of estates, viz., (a) a zamindari estate, (b) an under-tenure estate and (c) an inam estate. In *Mysore*, an 'inam village' is defined as an alienated village whether *Sarvamanya*, *Jodi* or *Khayamgutta*. The "permanent tenant" is a person the duration of whose tenancy is co-extensive with the duration of the tenure of the inamdar of an inam village and includes a quasi-permanent tenant, who is cultivating lands personally for a period of not less than six years prior to 1st July 1948.

In Kashmir, a proprietor is a person owning land and includes

- (1) an inferior land-owner,
- (2) a person who is recorded as *Qabiz* in respect of his holding of a *Gair Hazir* or *Gair Qabiz* in the revenue record, and
- (3) a successor-in-interest of a proprietor.

These expressions are explained above in order that they may be understood in their proper context during the discussion of the provisions of the Acts. They closely show a bewildering variety of proprietors, inferior proprietors and under proprietors in different States.

5. *Aims and Objects.*

All the Acts have one common aim, viz., abolition of the zamindaris in any form, shape or stage in the States concerned;

but this common objective finds expression in different ways in the preambles of those Acts. Some preambles of the Acts are modest in expression, whereas some are flamboyant and grandiloquent. In the former category fall the Acts of Madras, Mysore, Madhya Pradesh, Kashmir, Saurashtra and Bengal; whereas in the latter category come those of U.P., Bihar, Orissa and Assam. The *Madras* Act provides for the repeal of the Permanent Settlement, the acquisition of the rights of landholders in permanently settled and other estates and the introduction of the ryotwari settlement in such estates. The *Jammu and Kashmir* Act does not disguise its objective and provides for the abolition of big landed estates and their transfer to actual tillers. The *Assam* Act provides for the acquisition by the State of the interests of the proprietors and tenure-holders and certain other interests in the permanently-settled areas and certain other estates in the districts of Goalpara, Garo Hills and Cachar including their interests in forests, fisheries, *hats*, bazaars, ferries, mines and minerals. The *Saurashtra* Acts aim at the improvement of land revenue administration by ending the Girasdari system. For achieving this objective, the Acts provide for regulating relationship between the Girasdars and their tenants and for enabling the tenants to become occupants of the lands held by them. The *Mysore* legislation provides for the abolition of the inam tenure of the inam villages along with other miscellaneous inams in the State. The *Bihar* Act is the most flamboyant in its terminology. It provides for the transference to the State of the interests of proprietors and tenure-holders in land and of the mortgagees and lessees of such interests including interests in trees, forests, fisheries, jalkars, ferries, *hats*, bazaars, mines and minerals. It also provides for the constitution of a Land Commission for the State with powers to advise the State Government on the agrarian policy to be pursued by the State Government. In this context, the aims of the *U.P.* Act, which has been adopted as a model by other States, are modest. The main objective aimed at is the abolition of the Zamindari system which involves intermediaries between the tiller of the soil and the State and for acquisition of their rights, title and interest and to reform the law relating to land tenure in consequence. The preamble of the *Orissa*

Act reminds us of the Directive Principles laid down in the Constitution which enjoin on the States to secure economic justice for all and to secure to that end the ownership and control of all material resources of the community so that they may best sub-serve the common good and to prevent the concentration of wealth and means of production to the common detriment. In order to enable the State to discharge this obligation, the Act provides for the abolition of all the rights, title etc., of the intermediaries and for vesting of those rights in the State. The *Madhya Bharat* Act lays stress on the public purposes and provides for the improvement of agriculture and financial condition of agriculturists by abolition and acquisition of the rights of the proprietors in villages, mahals, chaks or blocks settled on the Zamindari system. The *Punjab* Act seeks to abolish the rights of superior proprietors, to confer full proprietary rights on inferior proprietors and to provide for payment of compensation to the superior proprietors. The *Pepsu* Act aims at abolition of the *Ala Malikiyat* rights enjoyed by persons other than Rulers. The West Bengal Estates Acquisition Act, 1953 seeks to eliminate the interests of all Zamindars and other intermediaries by acquisition on payment of compensation, to permit the intermediaries to retain possession of *Khas* lands upto certain limits and to treat them as tenants holding directly under the State and to acquire the interests of zamindars and other intermediaries in mines.

In short, the Acts aim at abolition and acquisition of the permanently settled and other estates and conferment of proprietary rights in cultivation with the object of extinguishment of intermediary interests for the purpose of improving agriculture and the agricultural conditions in the States.

6. *Vestings of estates, savings and consequences.*

After providing for the abolition of the Zamindaris, the next important provision the Acts make is about the vesting of those estates. In doing this, certain State Governments have saved certain personal properties held by the Zamindars and estate-holders. The consequences of the Acts on the Zamindars and the administration are far-reaching. The laws however primarily provide for the administrative consequences of the

Acts, viz., the introduction of the ryotwari system and other alternative administrative arrangements required to be made in the wake of the abolition of the Zamindaris.

As regards vesting, the Acts of *U.P., Bengal, Mysore, Madhya Pradesh, Madhya Bharat, Orissa, Bihar and Assam* provide for the issue of notifications in the Official Gazettes for vesting different areas at different times. It is significant to note that in those States, the Zamindari estates are not vested in Government with the enforcement of the Act; but provision has been made to vest different estates at different times. This provision seems to have been made presumably to suit local conditions and to placate local interests, as well. In the remaining Acts (i.e. *Saurashtra, Madras and Kashmir*), the estates are vested immediately on the coming into force of the Acts. Such notifications in the Official Gazettes are to be conclusive evidence of the notice to the estate-holders.

Apart from the manner and the time of vesting, there is a marked difference in the provisions regarding transference of the rights of the proprietors. In *U.P.*, all rights, title and interest of all intermediaries in every estate including cultivated or barren land, grove-land, forests, trees (other than trees in the village *abadi*, holding or grove), fisheries, wells (other than private wells in the village *abadi*, holding or grove), tanks, ponds, water-channels, ferries, pathways, *abadi* sites, *hats*, and *melas* (other than *hats*, bazaars and *melas* held upon land to which certain provisions of section 18 applies, and all sub-soil rights in mines and minerals whether being worked or not are vested in Government.

Apart from these, other consequences of the vesting are of a comprehensive character. To begin with, all grants and confirmations of title of or to land in any estate are determined. All rents, cesses, local rates and sayar in any estate or holding vest in Government and become payable to the State Government and not to intermediaries. Penalty is provided for paying the same to the former intermediaries. If there are any arrears of cesses and dues outstanding against the zamindar, they are to be deducted from the amount of compensation payable to him. The interests of intermediaries so acquired are not

liable to attachment or sale in execution of a civil court decree or order.

However, there are certain saving provisions. The Act does not affect the right of a person to work the mines and to recover any arrears of rent, cesses or sayar, which accrued to him before the date of vesting. Further, all private wells in holdings, grove, or *abadi*, trees in *abadi* and all buildings situate within the limit of an estate belonging to or held by an intermediary or tenant or any other person continue to belong to such person.

The *Bihar* Act follows the U.P. pattern with a few minor changes to suit the local variations. It contains comprehensive provisions regarding the mines, minerals and their leases because there are large mining areas in that State. The estates are vested in Government except the institutions which are religious, secular or of any trust and buildings connected therewith. The homesteads, which are in possession of proprietors and tenure-holders, are continued in their possession and are to be held free of rent as if the holders are tenants under the State. But if they are let out, they are made liable to payment of fair and equitable ground-rent. Further, all lands used for agricultural or horticultural purposes, which were in khas* possession of a proprietor or tenure-holder are allowed to be continued in their possession on payment of rent as raiyats having occupancy rights. But they are not entitled to retain possession of such lands if they are recorded as chaukidari chakran, goraiti jagir, or mafi goraiti in the record of rights. Further exception is made in the case of buildings together with lands thereunder in the possession of proprietors and tenure-holders and used as golas,† factories or mills; but the holders shall retain them on payment of rent to Government. The mines in operation have been vested in Government; but the erstwhile proprietor is deemed to be a lessee on the terms and conditions mutually agreed upon. Subsisting leases of mines and minerals are continued to the existing lessees as the lessees of Government. The buildings and lands appurtenant to the mines are also vested in Government, but

* Lands in khas possession mean lands under personal cultivation.

† Golas mean places where grain is stored.

the lessees are allowed to retain possession thereof on payment of fair and equitable ground-rent to Government. For the settlement of any disputes regarding the mines, provision has been made for appointment of a Mines Tribunal.

The *Orissa* Act follows the pattern of the provisions of the Bihar Act in view of the similarity in geographical and other conditions. But there is one fundamental difference. Like the Bihar and other Acts, the provision has been made to vest estates by notification in the Gazette; but an alternative provision has been made by which at the time of issuing the aforesaid notification, Government may invite the proprietors *to surrender their estates by agreement*. But such option has been allowed only in the case of proprietors of permanently-settled estates and intermediaries governed by the law of primogeniture. Proposals for surrender are to be received within one month of the notification in the Official Gazette. If Government agrees to the proposals of an intermediary, it may sanction in return as compensation perpetual annuity which shall not exceed a sum equal to 3½% of the amount of compensation payable under the Act. Acceptance of the annuity would result immediately in the vesting of the estate in Government. Other provisions regarding the homesteads, lands in the khas possession of intermediaries, the mines and minerals, etc., are analogous to those of the Bihar Act and need not be repeated here. A small distinguishing point may however be noted. Tenants of intermediaries and any persons holding lands in a village for service as village servants are to be continued on the former terms and conditions.

In the *Madhya Pradesh* Act, the U.P. provisions are meticulously followed; but specific provisions are made for trees and tanks that are to continue in possession of a proprietor or other person. The *Madhya Bharat* Act faithfully follows the Madhya Pradesh Act and has no distinguishing features of its own.

The *Punjab* Act provides that all rights, title and interest (including the contingent interest, if any, recognised by any law, custom or usage for the time being in force), of an ala

malik* in the land held under him by an adna malik are deemed to have been extinguished as from June 15, 1952 and full proprietary rights are deemed to have been vested in the adna malik free from all encumbrances. The ala malik has ceased to have any right to collect or to receive any rent or customary dues in respect of such land. The Act does not apply to the evacuee property.

In *Pepsu*, the Pepsu Abolition of Biswedari Ordinance No. XXIII of 2006 Bikrami was issued first. The Rulers of Faridkot and Nalagarh were recorded as superior land-owners or Ala Maliks in 4,90,392 acres and 1,74,563 acres, respectively. After the formation of Pepsu, the Ala Malikiat rights devolved upon the State Government. By notification No. 14(17)B-51-13-B and No. 14(17)B-51-14-B dated June 7, 1951, the Pepsu Government conferred full proprietary rights on inferior land-owners in Faridkot and Nalagarh areas without payment of any compensation, exempting the area allowed as personal property to the Ruler of Faridkot. Subsequently, the Pepsu Abolition of Ala Malikiyat Rights Act, 2009 has been enacted for liquidation of the Ala Malikiyat Rights in the remaining area of 36,023 acres in which such rights were enjoyed by persons other than the Rulers on payment of due compensation.† The Act does not apply to the evacuee property.

The *Assam Act* contains provisions similar to those in U.P., Bihar and Madhya Pradesh, but with one essential difference. It fixes the limit of a "private land" of a proprietor at 400 bighas (133.3 acres) which may be relaxed in the case of a proprietor or a tenure-holder, who has undertaken large-scale farming on a cooperative basis or by the use of power-driven mechanical appliances. The *Saurashtra Land Reforms Act, 1951* does not vest the estates in Government but declares that all lands of whatever description held by a Girasdar are liable to payment of land revenue. But the vesting of the estates is left to be done under the provisions of the *Saurashtra Estates Acquisition Act, 1952* by notification in the Gazette. It is significant that all the estates of Girasdars and Barkhalidars

* An 'ala malik' means a superior owner and includes a talukdar.

An 'adna malik' means an inferior owner vis-a-vis a superior owner.

† The Indian Journal of Agrl. Economics, March 1953, p. 185.

are not vested at a time, but provision has been made for vesting different estates or parts thereof at different times by notifications in the Gazette. But the vesting of such estates does not affect the gharkhed lands allotted to a Girasdar under the Saurashtra Land Reforms Act, 1951 or to any gharkhed land or any other lands in respect of which any person is entitled to become an occupant under that Act. The consequences of such vesting are that all public roads, lanes, paths, etc., all cultivable and uncultivable waste lands (excluding land used for building or other non-agricultural purposes), all bid lands, all unbuilt village site lands and all schools, dharmashalas, and other public buildings are vested in Government. However, bid lands held by a Girasdar are not affected by the provision.

In Mysore, the legislation provides for vesting different inam villages in Government at different times by notification. The consequences are that the entire inam villages including all communal lands, cultivated lands, pasture lands, forests, mines and minerals, quarries, tanks, irrigation works, fisheries are vested absolutely in Government free from all encumbrances. The inamdar ceases to have any interest in the village. But persons who are *prima facie* entitled to be registered as occupants or holders of a minor inam are not affected. Power has been taken to take over the records maintained by the inamdars for village management.

Under the *Madras Act*, Government is empowered to vest different zamindari estates at different times by notifications in the Gazette. The consequences are that the Madras Permanent Settlement Regulation, 1802, the Estates Land Act and all other enactments applicable to the estates except the Madras Estates Land (Reduction of Rent) Act, 1947 are repealed. The entire estates including the waste lands, mines and minerals, forests, quarries, etc., are transferred to Government and vested in it, free from all encumbrances. But the persons who are *prima facie* entitled to ryotwari patta are not affected.

Lastly, in *Kashmir*, the provisions are a class by themselves. Instead of directly vesting the lands in Government, it declares that the right of ownership held by a proprietor in land shall be extinguished in lands except (1) any land which is occupied

as a site of the town or village and is not assessed to land revenue.

(2) any revenue-paying land occupied, used or transferred after Samvat Year 1990, for building purposes situated within the municipal or notified area, and

(3) any land owned by the State or any department of the State or any local body or a co-operative society, such ownership rights are extinguished and cease to vest in it. But the extinguishment does not apply to

- (a) unit of land not exceeding 182 kanals ($22\frac{1}{2}$ acres) including residential sites, Bedzars and Safedzars;
- (b) *Kah Krisham* areas, *Arks*, *Kaps*, unculturable wastes including those used for raising fuel or fodder; and
- (c) orchards.

The *West Bengal Estates Acquisition Act* empowers Government to acquire by notification all estates and rights of intermediaries free from all encumbrances. Unlike other Acts discussed above, refusal to obey an order of acquisition is made punishable by a fine not exceeding Rs. 1,000/-. There is no time-limit for acquiring all the estates. Even when an estate is acquired by the State, there is a big exemption list of properties. The exempted properties include tea gardens, orchards, fisheries, mills and factories. Further, agricultural 'khas' land not exceeding 25 acres and non-agricultural *khas* upto 15 acres are excluded from acquisition. Besides, charitable and religious institutions and cooperative farming societies are also exempted. But the mines are liable to be acquired.

In short, in the vesting provisions, we find the real abolition of unnecessary intermediaries and zamindaris. The object is achieved by (a) vesting such rights in Government primarily, (b) then making certain exceptions in the case of the ghar-khed or home farms of the Zamindars and other properties of a personal character and (c) conferring occupancy, pucca tenancy or other proprietary rights on the inferior holders. As a result, in the scheme of the zamindari abolition laws, these provisions are pivotal and the success or non-success of the Acts would depend upon them in the main. They also contain general provisions for introduction of the ryotwari system in lieu of the zamindari system abolished.

7. *Management of Estates.*

After acquisition of the zamindaris and estates, the ryotwari system is introduced and the revenue administration is left to the existing village staff with additional staff where necessary. But some of the Acts provide for the special machinery for management of the villages, viz.,

- (1) the U.P. Act (Chapter VII)
- (2) the Bihar Act (Chapter III)
- (3) the Orissa Act (Chapter III)
- (4) the Madhya Pradesh Act (sections 51 and 67 and Chapter VIII)
- (5) the Madras Act (sections 6—8).

The provisions of the U.P. Act are very comprehensive and unique in that they provide for constitution of a Gaon Samaj to fill up the administrative vacuum created by the disappearance of the zamindars. This is a democratic step which aims at restoring the village community to its rightful place. A Gaon Samaj is to have perpetual succession and is to consist of all adults who ordinarily reside in the circle or who hold land as bhumidhars, sirdars, asamis or adhivasis. All lands of the village, all forests, all trees, public wells, fisheries, *hats*, bazaars, melas, tanks, ponds, private ferries, water channels, abadi sites, etc., would vest in the Gaon Samaj. Under the Gaon Samaj, a Gaon Sabha is to be formed and charged with the general superintendence, management and control of all lands, forests, abadi sites, *hats*, bazaars, melas, etc. Provision has been made to constitute a committee of Gaon Panchayat for the management of the village lands. If a Gaon Panchayat is found unable to manage the village, Government is empowered to make alternative administrative arrangements. The State Government is further empowered to frame rules for carrying out the purposes of the scheme of the Gaon Samaj. This scheme is still in an experimental stage and requires to be watched.

The *Bihar Act* generally leaves the management of the estates to the general revenue administration. Exception has, however, been made in villages where Village Panchayats have been established under the Bihar Panchayat Raj Act, 1947. In such villages, Government is empowered to entrust to

a Village Panchayat the management of the estates and tenures including trees, forests, fisheries, jalkars, *hats*, bazaars and ferries comprised therein.

But the *Orissa Act* blazes a new trail. It provides for the constitution of local authorities called the Anchal Sasan for the management of the estates. The Anchal Sasan is to consist of the Anchal Sabha and the Anchal Adhikari. The Anchal Adhikari is to be appointed by Government. The Anchal Sasan is to be a corporate body with perpetual succession with power to acquire and hold property, both moveable and immoveable, and to enter into contract, if necessary, for the management of the Anchal. A fund called an Anchal Fund is to be constituted. The Board of Revenue is empowered to superintend the working of the Anchal, to give effect to the provisions of the Act and to issue instructions for the guidance of the Collectors and Anchal Adhikaris. These novel provisions for the land management have been made on the basis of the recommendations of the Orissa Land Revenue and Land Tenure Committee, 1949.

Like Bihar, in *Madhya Pradesh*, the State Government is empowered to entrust the management of a village to a gram panchayat or such other agency.

The *Madras Act* provides for appointment of one or more persons to manage the estate. Such a manager is to be subordinate to the District Collector. But the Board of Revenue is empowered to give effect to the provisions of the Act, superintend the taking over of the estates and make interim administrative arrangements, to issue instructions for the guidance of the Director, District Collectors, Settlement Officers and managers of estates. Even provision has been made to constitute Tribunals of three members for carrying out the purposes of the Act.

The *West Bengal Act* provides that the authorities for carrying out acquisition should be the Board of Revenue, the Director of Land Records and Surveys, Revenue Officers, Settlement Officers, Assistant Settlement Officers, Compensation Officers, etc.

In the result, the different agencies for village administration are as follows—

<i>State</i>	<i>Agency.</i>
U.P.	.. Gaon Samaj.
Bihar	.. Village Panchayat.
Orissa	.. Anchal Sasan.
Madhya Pradesh	.. Village Panchayat.
Madras	.. Managers.
West Bengal	.. Board of Revenue, Revenue Officers, Settlement Officers, etc.

The schemes of U.P. and Orissa are novel and are more or less experiments in the village revenue administration with a view to restoring the old village community.

8. *Recognition of conferment of occupancy rights.*

In the land reforms regarding abolition of the zamindaris and making the tiller of the soil the owner thereof, the provisions relating to recognition or conferment of occupancy rights on certain types of land-holders and tenants constitute a very important part of the programme of re-orientation of land-ownership. Even the Planning Commission has admitted that "The future of land ownership and cultivation constitutes perhaps the most fundamental issue in national development. To a large extent, the pattern of economic and social organization will depend upon the manner in which the land problem is resolved."*

In pursuance of this policy, we find that generally every Zamindari Abolition Act, the Land Reform Act or Tenancy legislation provides either for recognition or conferment of pattedari, occupancy, pacca tenancy, or malik makbuza rights of transferable and heritable character on as many types of landholders and tenants as possible. Some of these Acts provide for the maximum area that a person may hold for cultivation with the result that the remainder is available for allotment to tenants and other agricultural wage-earners. In making tenants eligible for the rights of private ownership, cultivators have to pay a nominal occupancy price generally in low

* The Five Year Plan, p. 134.

multiples of assessment to Government or the Zamindar according as the land is the property of Government or the Zamindar. In order to help the tenants, the occupancy price is made payable in suitable instalments even by advance of tagavi loans or other institutional credit.

In this background of the Government policy, it is of special interest to examine provisions of Acts in this respect. In the nature of things, there is no uniformity in the provisions in different States because of the diversity of land-holders and their rights. But there is one common feature in all i.e. there is no attempt to dispossess the holders of the lands in their personal cultivation called 'gharkhed' in Gujarat, 'khudkasht' or 'sir' in U.P., Madhya Pradesh, Bihar, Punjab and 'Khas mahal' in Bengal.

In U.P., there were as many as 16 categories of land-holders before the abolition of the zamindaris. In order to understand the complexity of the land system, those categories are stated below :—

1. Sir.
2. Khud Kasht.
3. Thekedars.
4. Land held by permanent tenure-holders in Agra.
5. Land held by fixed-rate tenants in Agra.
6. Tenants on special terms in Avadh.
7. Exproprietary tenants in Agra and Avadh.
8. Occupancy tenants and tenants of not more than 12 years in 1333 Fasli in Agra and Avadh.
9. Hereditary tenants and hereditary tenants with special rights.
10. Non-occupancy tenants.
11. Occupiers of land without the consent of the person entitled to admit as tenant in Agra and Avadh.
12. Grants held rent-free otherwise than in lieu of service.
13. Grants held rent-free in lieu of service.
14. Grants at favourable rates of rents.
15. Grove-holders in Agra and Avadh.
16. Sub-proprietors in Agra and under proprietors in Avadh.

After the abolition of the Zamindari, there remain four classes of land tenure-holders:—

- (1) Bhumidhar,
- (2) Sirdar,
- (3) Asami, and
- (4) Adhivasis.

The Act recognises the following persons as bhumidars on the coming into force of the Act:—

- (a) a person in possession of or deemed to be an intermediary of *sir*, *khudkasht* or an intermediary's grove;
- (b) a permanent lessee in Avadh holding land as a grove or in his personal cultivation;
- (c) a fixed-rate tenant or a rent-free grantee of lands;
- (d) (i) an occupancy tenant, (ii) a hereditary tenant, (iii) a tenant on patta Dawami or Istamrari } possessing a right to transfer the holding by sale;
- (e) every person belonging to the class mentioned in section 3 of the U.P. Agricultural Tenants (Acquisition of Privileges) Act, 1949, who has been granted a declaration under section 6 thereof.

The following cultivators have been recognised as *sirdars*:

- (a) a tenant holding on special terms in Avadh,
- (b) an exproprietary tenant,
- (c) an occupancy tenant,
- (d) a hereditary tenant,
- (e) a grantee at a favourable rate of interest,
- (f) a non-occupancy tenant of tea-estates,
- (g) a sub-tenant referred to in sub-section (4) of section 47 of the U.P. Tenancy Act, 1939,
- (h) a grove holder, and
- (i) a person holding lands on Patta Dawami or Istamrari.

This class of cultivators constitutes 68.1% of the total cultivators and holds 73.3% of the total holdings.

There is a third category of land holders called Asamis. The following categories of land-holders have been recognised as asamis:—

- (a) a non-occupancy tenant of an intermediary's grove land,
- (b) a sub-tenant of grove land,
- (c) a tenant's mortgagee,
- (d) a non-occupancy tenant of pasture land or of land covered by water and used for the purpose of growing singhara, etc.,
- (e) a non-occupancy tenant of land declared by Government as earmarked for taungya* plantation,
- (f) a tenant of land which the Government has by notification in the Gazette declared to be part of tract of shifting or unstable cultivation.

This category consists of those cultivators who did not possess hereditary or stable interests in land.

Lastly, there is a fourth category of cultivators, who are called *Adhivasis*. A tenant of *Sir*, a subtenant, or an occupant of any land (other than the land to which section 16 applies) is deemed *Adhivasi* unless he has become a *bhumidhar* of land under section 18(2). Generally speaking, these cultivators were (a) tenants (who were not *Bhumidhars* or *Sirdars*) of *Sir* land, (b) sub-tenants and (c) occupants of land other than the *Bhumidhars*, *Sirdars* and *Asamis*. These *Asamis* constitute 14.69% of the total number of cultivators who hold 7.37% of the total cultivable area.

Rights and responsibilities of these cultivators

The lands held on the *Bhumidhari* tenure are heritable and transferable. The *Bhumidhar* is entitled to put the land to any use and cannot be ejected like the *Sirdars* and *Asamis*.

The *Sirdars* and *Asamis* have no transferable rights in the lands. The *Sirdars* represent mainly the former hereditary and occupancy tenants. Tenants on *sir* land of those inter-

* The expression "taungya plantation" means the system of afforestation in which the plantation of trees is, in earlier stages, done simultaneously with the cultivation of agricultural crops which ceases when the trees so planted begin to form a canopy rendering the cultivation of agricultural crops impossible.—*Explanation* to section 21.

mediaries, who were paying land revenue of more than Rs. 250 have been declared *Sirdars*. The Asamis are mostly the former non-occupancy tenants. The Sirdar and Asamis can use the land only for agriculture, horticulture or animal husbandry. Both are liable to ejection. A Sirdar can partition his holding but not an Asami. A Sirdar may surrender his holding wholly or in part but the Asami can relinquish the entire holding. The interests and rights of an Asami are extinguished with the extinguishment of the right of the landholder. He can be ejected for reasons such as unsatisfied decree for arrears of rent, expiry of the lease and the landholder's desire for resumption of lands for his personal cultivation.

There is the fourth category known as *Adhivasis*. The tenants of *sir* land of those intermediaries, who pay as land revenue Rs. 250/- and the former sub-tenants constitute the class of *Adhivasis*. This class is transitional and will disappear after some time. The *Adhivasis* can be ejected for arrears of rent or when he transfers his holding or when he puts the land to non-agricultural use.

As regards their liability to the payment of land revenue or rent, the *Bhumidhars* and *Sirdars* pay land revenue to Government and are similar to occupants in Bombay. *Asamis* and *Adhivasis* are tenants and pay rent. The Sirdar and *Bhumidhar*, on acquisition of *Bhumidhari* rights, will pay to Government as revenue only 50% of the rent payable by them prior to their becoming *Bhumidhars*. This amount of rent is not to be enhanced for a period of 40 years from the commencement of the Act.

As regards the acquisition of the *Bhumidhari* rights, the Act provides that all occupancy, hereditary, exproprietary tenants, and tenants holding on special terms in Oudh can acquire the *Bhumidhari* rights on payment of a sum equal to 10 times their rent in lump or 12 times their rent in instalments. The tenants of *Sir* and other tenants called *Shikmis* and sub-tenants can become *Bhumidhars* on payment of a lump sum equal to 15 times their rent within 5 years with the consent of their tenant-in-chief or principal tenurial holder. Although no *Bhumidhari* rights are conferred by the Act on the

tenants, they are made eligible for such rights on payment of 10 to 15 times the rental paid by them to their landlords before.*

In *Orissa*, certain lands such as—

- (a) lands used for agricultural or horticultural purposes in the khas possession of an intermediary,
- (b) lands used for agricultural or horticultural purposes and held by temporary lessees or lessees of an intermediary, who owned either as intermediary or in other capacity less than 33 acres of land in the aggregate situated within the State; and
- (c) lands held for such uses and in possession of a mortgagee which were in the khas possession of such intermediary

are allowed to continue in possession of the holders as raiyats having occupancy rights subject to payment of fair and equitable rent.

Where the intermediaries have come to any settlement among themselves regarding occupation of lands, the lands are deemed to have been settled according to that settlement.

If any person was a tenant of an intermediary before the coming into force of the Act, he is to continue as a tenant of Government subject to the previous conditions. Village servants of an intermediary are continued as such servants of the State. Lastly, any person holding land under an intermediary for personal service under him (an intermediary) is relieved from the obligation of such service and the land is to be settled with him in the prescribed manner.

In short, the Act does not provide for conferment of occupancy rights on tenants or other inferior holders. The State has however enacted the Orissa Government Lands Bar to Acquisition of the Rights of Occupancy Act, 1950, which provides

* These provisions have been criticized as under :—

“The blunt truth is that the present 22 categories of tenants have been reduced to four and that is the only change, nothing more than a change of name. No section of the peasantry gets any extra rights which it did not already enjoy. The status quo is retained not only as regards land but also as regards legal rights of the peasantry.”—P. C. Joshi : *U. P. Zamindari Abolition*.

that the occupancy rights shall not accrue in any land reclaimed at the cost of the State or acquired under the Land Acquisition Act or under any other law unless the said right is specifically conferred.

The *Bihar* Act does not provide for conferment of the occupancy rights on tenants, but certain lands in khas possession of intermediaries are retained by them on payment of rent as raiyats having occupancy rights. The *Orissa* and *Assam* Acts make no special provision in this respect.

However, the *Madhya Pradesh* Act makes separate provisions for conferment of the Malik Makbuza rights for the pre-merger State (Central Provinces) and the merged territories (vide Chapters VI and VII). In the former, every proprietor, who is divested of his proprietary rights in an estate is declared as a *malik makbuza** of his home-farm land in his possession. A person is eligible to become an occupancy tenant of the State if the proprietary rights are held by a protected thekadar or other thekadar or a protected headman. The malik makbuza rights are also conferred on absolute occupancy and occupancy tenants on payment to Government of occupancy price equal to three and four times the amount of rent, respectively. A person on becoming a malik makbuza is entitled to purchase trees in his land, if he is not the owner thereof. The tenancies of the absolute occupancy and occupancy tenants and village servants are continued and they are deemed to be tenants of the State. As regards their liability to pay land revenue, the Malik Makbuzas have to pay an amount equal to 7/8th of the sum payable as rent in the preceding year.

Similar provisions have been made for conferment of the Malik Makbuza rights on the landholders and tenants in the merged territories with one difference. Such malik makbuzas have to pay as land revenue an amount equal to seven-eighth of the amount of assessment of such land, and not rent as in the old Central Provinces. A raiyat or a tenant of an estate or mahal vesting in Government is made eligible to acquire the malik makbuza rights on payment to Government of an occupancy price equal to twice the annual rent

* A *Malik Makbuza* means a cultivator possessing a hereditary or proprietary right in the land he cultivates.

or land revenue payable for the holding. The malik makbuza rights are heritable and transferable.

In the result, after abolition of the malguzari system, there remain four categories of cultivators:—

- (1) malik makbuzas,
- (2) tenants,
- (3) raiyats, and
- (4) lessees.

This State had a malguzari system of land revenue administration under which the land revenue was collected by the malguzars or patels. Those patels were recognised as proprietors of their estates by the British. With the abolition of the malguzari system, those malguzars are removed. Still however, the Act provides for appointment of patels for collection of land revenue and rents and comprehensive rules have been framed under section 60 thereof. Thus, the vestiges of the old feudal system are retained and the patels will continue to have sway over the village administration to a considerable extent, even though their wings have been clipped. It may be noted that the provision for management of villages by village panchayats does not alter this fact.

The above provisions relate to the old Central Provinces. Special provisions in this respect have however been made for Berar (Chapter VIII). All alienated lands have been vested in Government and superior holders in possession of their home-farms and plot-holders are recognised as occupants on payment of land revenue equal to the *fair* assessment thereon. The lessees of the Government lands are entitled to rights of occupancy on payment of a premium calculated on the graded basis of fair assessment of the land. In the same State, it is evident that a distinction in the rights of land ownership has been maintained. In the Central Province and the merged territories, the landholders are called Malik Makbuzas; whereas in Berar, they are called occupants. Perhaps the past revenue history might have necessitated such a differential treatment in the two parts of the same State.

In *Madhya Bharat*, a proprietor who is divested of his rights in the estates, chak, block or mahal is declared as a pucca tenant of the khud kasht lands in his possession subject to pay-

ment of land revenue assessed thereon. Such estates are allowed to be partitioned amongst different persons having interests. Further, every tenant of a proprietor is deemed to be a pucca tenant of his holding from the date of vesting without payment of any sum or premium. But a sub-tenant or a tenant of a sub-tenant is made eligible to the rights of a pucca tenant on payment to a proprietor of a tenant or a sub-tenant the amounts indicated below:—

- (1) in the case of a sub-tenant of a Gair Maurusi tenant, an amount equal to double the net annual income of that land;
- (2) in the case of a sub-tenant of a Maurusi or a Sakitul-milkiat tenant, an amount equal to six times the net annual income of the land;
- (3) in the case of a sub-tenant of a khudkasht or *sir* of the proprietor, an amount equal to six times the net annual income of the land;
- (4) *in the case of a tenant of a sub-tenant*—
 - (a) if he is a tenant of a sub-tenant in the *khudkasht* or *sir* lands of a proprietor, an amount equal to six times the net annual income of that land, out of which 85% is to be given to the proprietor and 15% to the sub-tenant;
 - (b) in the case of any other tenant of a sub-tenant, an amount equal to eight times the net annual income of the land of the original tenant out of which 85% is to be given to the original tenant and 15% to the sub-tenant.

But a sub-tenant or a tenant of a sub-tenant who is a minor, a lunatic, an idiot or a person incapable of personally cultivating lands or is in the Military. Air or Naval service is debarred from acquiring pucca tenancy rights even on payment of the premium stated above. The money is to be deposited with a Tehsildar within a period of 2 years and until the full amount is paid, he is treated as a tenant or a sub-tenant as before.

On vesting of the estates in Government, every proprietor acting as a Lambardar (headman) before shall cease to act as

such and the Suba shall appoint a patel for collection of land revenue and rents payable by pucca tenants, tenants and other persons in the village.

The *Madras Act* provides for grant of the ryotwari pattas to certain categories of landholders.

- I. Every ryot in an estate, after it is vested in Government, is entitled to a ryotwari patta in respect of
 - (a) all ryoti lands which are included or ought to have been included in his holding and are neither lanka lands nor lands over which other person is entitled to a ryotwari patta,
 - (b) all lands in his occupation, which are in his possession or possession of his predecessor-in-title from 1st July 1939.

But a lessee of any lanka land and a person to whom a right to collect rent of any land has been leased before the notified date including an ijardar or a farmer of rent is not entitled to a ryotwari patta.

II. In the case of the Zamindari estate, a landholder is entitled to a ryotwari patta in respect of

- (a) all lands (including lanka lands) which belonged to him as private land,
- (b) (i) all lands which were properly included or ought to have been included in the holding of a ryot and which have been acquired by a land-holder, by inheritance or succession under a will, provided that the lands were personally cultivated by him from the date of acquisition or 1st July 1939 whichever is later and are in direct and continuous possession from that date,
- (ii) all lands of the above type, which have been acquired by the landholder by purchase, exchange or gift but not including purchase at a sale for arrears of rent provided that the landholder has cultivated such lands personally from 1st July 1945 and has been in his direct and continuous possession from that date;

- (iii) all lands excluding lanka lands or forest lands which have been relinquished or abandoned by a ryot or which have never been in the occupation of a ryot.

III. In an inam estate, a landholder is entitled to a ryotwari patta in respect of

- (a) all lands including lanka lands which belonged to him as private land within the meaning of section 3(10)(b) of the Estates Land Act, or were recorded as his private land in the records;
- (b) as in II (b) above.

IV. In an under-tenure estate, the grant of ryotwari patta to a landholder is regulated in accordance with the provisions of

- (a) section 13, i.e. as in section III above, if it has been decided that such estate was created before the date of the permanent or temporary settlement of the principal estate or the 13th July, 1802;
- (b) as in section II above.

As regards the liability to pay land revenue, every landholder or a ryot, who has been granted ryotwari patta under the Act is liable to pay land revenue fixed on the land. But if in the case of any land, a ryot was liable to make any payment to the landholder otherwise than by way of rent, whether periodically or not, he (the ryot) is to continue making such payments as accrue on or after that date to Government.

V. In the case of service lands which were held subject to performance of personal or private service to the landholder, the person is absolved from the obligation of service and is entitled to a ryotwari patta in respect of such land.

The *Mysore* legislation, was introduced in the State Legislature in 1951 but subsequently lapsed. A new Bill was introduced in 1953. It recognises the following persons as occupants:

- (1) every inamdar in respect of all lands except communal lands, waste lands, gomal lands, forest lands, tank beds, mines, quarries, tanks, irrigation works, etc.; and the lands upon which buildings owned by others are erected.

- (2) holders of minor inams to which the Act applies are to be registered as occupants of lands included in their holdings, except communal lands, waste lands, gomal lands, forest lands, tank beds, mines, rivers, quarries, irrigation works, etc.; and the lands upon which buildings have been erected by others.
- (3) kadim tenants in respect of their holdings;
- (4) permanent tenants in respect of their holdings on payment of a premium equal to multiples of land revenue payable to Government varying from 15 to 50 multiples or the basic value in rupees per acre as specified in the Schedule to the Act.
- (5) the holders of minor inams to which the Act is not applicable in respect of the lands included in their holdings.

These occupants are liable to pay to Government land revenue equal to the land revenue assessment fixed on the land if surveyed and settled or the land revenue assessment fixed on the adjacent land if unsurveyed and unsettled.

In Saurashtra, the Girasdars are classified into A, B and C categories according to the area of the lands held by them before the resumption of their estates. After resumption, the Act provides for allotment of gharkhed lands to each category of Girasdars. Girasdars have to apply to the Mamlatdars for allotment of gharkhed lands. After inquiry, the lands are allotted to A and B class Girasdars as under:—

<i>Class.</i>	<i>Area allottable.</i>
(a) A class Girasdars—	3 economic holdings.
(b) B class Girasdars—	
(i) those having lands in excess of 120 acres but not exceeding 320 acres—	1½ economic holdings.
(ii) those having lands in excess of 320 acres but not exceeding 540 acres—	2 economic holdings.
(iii) those having land in excess of 540 acres but not exceeding 800 acres—	2½ economic holdings.

In making this allotment, the following principles are to be borne in mind:—

- (a) Such of the bid land or cultivable waste of the estate as the Girasdar wishes to utilize for personal cultivation is to be allotted to him.
- (b) If the land allotted under (a) above is not sufficient, such agricultural lands as are held by tenants in excess of one economic holding *shall* be available for allotment.
- (c) If such excess as is referred to in (b) is not sufficient for such allotment, the deficit shall be made up by taking agricultural lands from all the tenants of the Girasdar in proportion to the area held by them, irrespective of the size of their holdings.
- (d) The lands allotted to a Girasdar from the holding of a tenant, as far as may be, have the same proportion of Bagayat or Jirayat and also of good, medium and poor land as existed in the estate, and the allotment shall, as far as possible, be made in the form of contiguous blocks of 10 acres or more.

For the purpose of such allotment, 'agricultural land' shall not include sites of farm buildings or of dwellings or wadas.*

As regards allotment of agricultural land to *C class Giras-dars*, the Act provides that allotment should be of lands equal to $\frac{1}{2}$ total area of the land held by each of his tenants. This allotment is subject to the proviso that the total area of the holding of a C class Girasdar made up of gharkhed in his estate and any bid land or cultivable waste, which he desires to utilize for personal cultivation and khalsa land, if any, in his possession together with the land allotted under these provisions is not to exceed

- (a) an economic holding, in the case of one in whose estate agricultural land does not exceed 80 acres; and
- (b) one and a half economic holdings, in the case of one in whose estate agricultural land does not exceed 120 acres.

* An economic holding varies for the different parts of Saurashtra but it is generally taken as an area equal to 32 acres of land.

In making this allotment, where it is not necessary to take half of the total area of the land held by each of the tenants, agricultural land is to be taken from each of the tenants in such proportion as may be necessary to make up 1 economic holding or $1\frac{1}{2}$ economic holdings, as the case may be. Secondly, the area allotted to a C class Girasdar is not to include *khalsa* lands, if any, held by a tenant. The sites of farm buildings or of dwellings or wadas are not to be included in calculation of agricultural lands.

These provisions are not to apply to any land in respect of which a tenant has acquired chav or buta hak (occupancy rights).*

Apart from allotment of gharkhed lands to the Girasdars, who have been deprived of their lands, there are special provisions regarding acquisition of occupancy rights by tenants. Despite the provisions in Chapter IV (regarding gharkhed lands), a tenant is entitled to acquire occupancy rights in his holding on payment of an amount equal to six times the assessment payable in respect of agricultural lands.

As regards the liability of Girasdars to pay land revenue to Government, the Third Schedule to the Act provides as follows:—

<i>Class of Girasdar.</i>	<i>Assessment payable to Government.</i>
1. Girasdar of A Class	full assessment
2. Girasdar of B Class	(a) 4 annas per acre for the first three years, (b) 8 annas per acre for the next three years, (c) $\frac{1}{2}$ of the assessment for the next five years and (d) full assessment thereafter.
3. Girasdar of C Class	(a) 4 annas per acre for 21 years, and (b) full assessment thereafter.

* Chapter IV of the Saurashtra Land Reforms Act, 1951.

The above scale is subject to the proviso that if the lands are transferred by sale, mortgage with possession or otherwise (which is not an exchange between persons who are descendants of a common ancestor in the male line, etc.), the said lands are liable to payment of full assessment.

Thus, the method of allotment of gharkhed lands and eviction of tenants for allotment of gharkhed lands and levy of assessment are novel features of this Act.

Before the enforcement of this Act, there were about 33,000 Girasdars holding lands in 1,726 villages of Saurashtra measuring about 29 lakh acres. About 8,000 Girasdars held $7\frac{1}{2}$ lakh acres of land for gharkhed. The number of tenants of the Girasdars was approximately 55,000, who held nearly 17 lakh acres of land in their possession.* In allotment of the gharkhed lands to the Girasdars, the Saurashtra Agrarian Reforms Commission estimated that the total number of evictions would be about 4,800, which gives an average of less than three evictions per alienated village.†

In *Jammu and Kashmir*, every proprietor is entitled to retain $22\frac{3}{4}$ acres of land in addition to orchards, grass farms and fuel reserves and the right of ownership in land in excess of this unit is extinguished and transferred to the tillers to the extent of their actual cultivating possession during kharif 2007 (September-October 1950). A tiller means a person, who tills lands with his own hands and with reference to the land owned by a proprietor, has, on the date of the commencement of the Act (17th October 1950) been in cultivating occupation of such land and includes a tenant, who after the 13th April 1947 has been ejected otherwise than in due course of law or has ceased to cultivate the land owing to reasons beyond his control; but does not include a trespasser, a servant, who is paid in cash or kind for his services, a person who is not the actual beneficiary and a hired labourer. The law provides that no tiller shall with the land so transferred and that which he already owns, possess more than 20 acres in ownership right. In short, no proprietor can hold more than $22\frac{3}{4}$ acres

* The Indian Journal of Agricultural Economics, March 1953: B. R. Patel, I.C.S.: Land Reforms in Saurashtra, p. 167.

† Report of the Agrarian Reforms Commission, Saurashtra, p. 86.

of land and no tiller more than 20 acres. Any interest or right in land devolving upon him by custom or under any law for the time being in force, shall to the extent that it exceeds $22\frac{3}{4}$ or 20 acres, as the case may be, be extinguished and shall escheat to the State. The term 'land' as defined in the Act includes forest land and wooded wastes but excludes the site of any building in village site or any land appurtenant thereto. Recently, the Wazir Committee which was appointed by the State, inter alia, to inquire into the working of the land reforms, has found the ceiling of $22\frac{3}{4}$ acres as inadequate and a cause of discontent amongst the proprietors. It has, therefore recommended* that in the case of 'Kandi' (dry) areas, the maximum of land holdings should be raised to 38 acres in the Jammu province and to 28 acres in Kashmir. The former limit of $22\frac{3}{4}$ acres throughout the State was fixed irrespective of soil fertility and this had weighed heavily on the farmers of 'Kandi' areas of Jammu. This was also one of the major points of the Parishad agitation. The report also urges the removal of all inconsistencies and anomalies extant in the Big Landed Estates Abolition Act so as to minimize the difficulties of both landlords and peasants.

As regards the liability to pay land revenue, the proprietors and tillers have to pay land revenue but the latter (tillers) have to pay in addition a special Land Development Cess at the rate of 4 annas per rupee of land revenue. This cess is earmarked for being utilized in rehabilitating the cultivators and improvement of lands. By the end of July 1952, Rs. 74,180 were received as Land Development Cess by Government and 1,32,469 acres were transferred to 1,28,781 tillers and an area of 47,804 acres was vested in the State.†

The *Bengal* Act does not provide for conferment of occupancy rights on the tenants; because it restricts its scope to the acquisition and not distribution of the lands acquired. This is left to be done under the Land Reforms Bill under preparation.

The *Himachal Pradesh* legislation does not seem to provide for conferment of occupancy rights on the tenants.

* The Times of India dated 27-7-1953.

† Land Reforms published by the Kashmir Government, p. 11.

9. *Assessment of compensation.*

Now, we come to the pivotal provisions of the Zamindari Abolition Acts which determine the tempo of implementation, nay, the success of the Acts themselves. At the outset, it may be made clear that except the Kashmir Government, all State Governments, which have passed the Zamindari Abolition Acts, have accepted the directive of the Constitution that no man shall be deprived of his property without payment of compensation (Article 31). As a result, the States have accepted the obligation of paying compensation either for modification or extinguishment of any rights in property. It is therefore proposed to examine the provisions from two angles, viz.,

(a) the basis of compensation, and

(b) the rates of compensation.

(a) *The basis of compensation.*

In different States, the bases of compensation adopted differ. In *United Provinces*, the basis of compensation is "net assets", whereas it is "net income" in Assam, Bengal, Himachal Pradesh, Bihar, Orissa and Madhya Pradesh. Madras, however, has adopted a basis which is called "basic annual sum". As their names indicate, the assets or incomes are arrived at differently. In *U.P.*, the Act provides for payment of compensation at eight times the net assets of the intermediaries. The Compensation Officer computes the gross assets and then deducts sums payable to Government on account of land revenue or rent, agricultural income-tax, cost of management, and irrecoverable arrears of rent equal to 15% of the gross assets. Thereafter, the draft compensation assessment roll is published first by the Compensation Officer in the Gazette and objections are invited. Objections, if any, are considered and the award is made. Against the award of the Compensation Officer, appeals lie to the District Judge and the High Court. Thereafter, the amount of compensation payable to an intermediary is declared by the Compensation Officer. Compensation carries interest at $2\frac{1}{2}\%$ from the date of vesting to the date of determination of the cash compensation or the redemption of bond.

In *Bihar*, the "net income" of a Zamindar is taken as the basis of compensation. The Compensation Officers appointed

for the purpose have to find out the gross assets and after deducting agricultural income-tax and other amounts on account of cost of management and works of benefit to the raiyats of such estate, the net income of an estate is arrived at. The rate of the cost of management varies from 5% to 20% of the gross asset according as the amount of gross asset does not exceed Rs. 2,000 and exceeds Rs. 15,000 respectively. The cost of works of benefit to the ryots of such estate or tenure varies from 4% to 12½% of the gross asset according as the gross asset does not exceed Rs. 5,000 and exceeds Rs. 20,000, respectively.

The rates of compensation in the case of a proprietor or a tenure-holder of a permanent or resumable tenure is to be determined according to the prescribed scale. The rate of compensation varies according to the amount of net income. If the net income does not exceed Rs. 500, the rate is twenty times the net income. The multiple of the net income decreases with the increase in the net income. The lowest multiple is three in the case of the net income which exceeds Rs. 1 lakh. The scale is given below:—

Group	Net income		Multiple of net income
	Rs.	Rs.	
1.	Upto Rs. 500		20
2.	Exceeding	500 and upto 1250	19
3.	„	1250 „ 2000	18
4.	„	2000 „ 2750	17
5.	„	2750 „ 3500	16
6.	„	3500 „ 4250	15
7.	„	4250 „ 5000	14
8.	„	5000 „ 10000	10
9.	„	10000 „ 20000	8
10.	„	20000 „ 50000	6
11.	„	50000 „ 100000	4
12.	„	100000	3

To these amounts of compensation are added

- (1) 15% of the arrears of rents including royalties, cesses and interests, and
- (2) compensation payable in respect of mines and minerals.

It may be noted that special provisions have been made for computation of compensation payable for the mines and minerals.

After assessment of compensation, the compensation assessment roll is published first for inviting objections. After hearing objections, the roll is finally published in the Gazette.

The *Orissa* Act follows the U.P. and Bihar pattern in arriving at the net income of an estate. From the gross assets, the land revenue, agricultural income-tax, the cost of management, etc., are deducted.

The cost of management is deducted at the following rates:—

Group	Gross asset		Rate	
1.	Upto Rs. 500	Rs.	Rs.	Nil
2.	Exceeding	500 and upto	2000	5% of gross asset.
3.	„	2000 and upto	5000	7½% of gross asset.
4.	„	5000 and upto	10000	10% of gross asset.
5.	„	10000 and upto	15000	12½% of gross asset.
6.	„	15000		Not less than 15 and not more than 20% of the gross asset.

The rate of compensation is 15 times the net income of Rs. 500. The multiple of net income diminishes proportionately with the increase in the net income. For the net income of Rs. 4,000,

the rate is 4 times and exceeding that amount, it is 3 times the net income.

Group	Amount of net income	Multiple of net income
	Rs.	
1.	500	15
2.	next 3500	13
3.	„ 3000	10
4.	„ 3000	7
5.	„ 15000	5
6.	„ 15000	4
7.	on the balance of net income	3

To this amount is to be added the amount of compensation payable for mines and minerals. These provisions do not affect the surrender of an estate agreed upon under an agreement. Other provisions regarding the preliminary and final publication of the compensation assessment rolls in the Gazette are quite similar to those in U.P. and Bihar.

The *Madhya Pradesh* Act also bases the amount of compensation on the net income of an estate or a mahal. The net income is arrived at by deducting from the gross income amounts on account of land revenue cesses, agricultural income-tax, the cost of management varying from 8% in the case of the gross annual income not exceeding Rs. 2,000 to 15% in the case of such income exceeding Rs. 15,000. Even after making allowance for all the above deductions, the net income is in no case to be less than 5% of the gross income. Separate provision has been made for computing compensation on account of the vesting of the rights to mines and minerals. As the Act contains distinct provisions for the Central Provinces and merged territories, that distinction is carried out even in the matter of compensation.

In the *C.P. and Berar*, the amount of compensation payable is *ten times* the net income determined under the rules.

In the merged territories, in the case of a proprietor, thekadar, ganotia or headman, the amount of compensation is prescribed according to the following table:—

<i>Net annual income.</i>	<i>Compensation.</i>
(1) Where the net annual income does not exceed Rs. 500 per year.	Ten times the net annual income.
(2) Where the net annual income exceeds Rs. 500 but does not exceed Rs. 1,000.	Eight times the net annual income or Rs. 5,000, whichever is greater.
(3) Where the net annual income exceeds Rs. 1,000 but does not exceed Rs. 2,000.	Five times the net annual income or Rs. 8,000, whichever is greater.
(4) Where the net annual income exceeds Rs. 2,000.	Twice the net annual income or Rs. 10,000, whichever is greater.

The machinery for assessment and award of compensation is quite similar to that in U.P. and Bihar.

The *Madhya Bharat* Act follows many provisions of the *Madhya Pradesh* Act. The net income of a proprietor is taken as a basis for assessing the amount of compensation. The amount of compensation is to be *eight times* the net income arrived at under the Rules. From the gross income, deductions on account of land revenue, cesses and the cost of management are to be made. Like other Acts in Bihar, *Madhya Pradesh*, etc., there is no sliding scale for the cost of management but a flat rate of 10% of the gross income is prescribed for deduction.

In the northern group of the estates, *Assam* adopts the "net income" as the basis for compensation. The deductions to be made from the gross income are generally the same with the exception that different scales are prescribed for the cost of management and the cost of beneficial works for the raiyats. The rates of the cost of management vary from 5% to 15% according as the gross income varies from Rs. 2,500 to Rs. 20,000. Between Rs. 2,500 and Rs. 20,000, there are 6 groups of gross income. For the similar amounts of gross income, the rates of

the cost of beneficial works for the raiyats vary from 2% to 10%. There are also six groups of gross income. The aggregate amount of compensation payable to a proprietor or an estate-holder varies according to the different slabs of eleven income groups:

Group	Amount of net income		Multiples of net income	
		Rs.	Rs.	
1.	upto	1000		15
2.	Exceeding	1000 and upto	2500	12
3.	„	2500 and upto	5000	11
4.	„	5000 „ „	7500	10
5.	„	7500 „ „	10000	9
6.	„	10000 „ „	15000	8
7.	„	15000 „ „	30000	7
8.	„	30000 „ „	50000	6
9.	„	50000 „ „	100000	5
10.	„	1 lakh „ „	3 lakhs	4 subject to maximum of 10 lakhs.
11.		3 lakhs		3 subject to maximum of 10 lakhs.

The quantum of compensation in the *Punjab Act* is eight times the amount of annual rent and other dues, if any, payable to the ala malik, whether by the adna malik or whether partly by adna malik and partly by Government. However, where the rent or other dues are paid wholly or partly in kind, the amount of such annual rent or other dues are to be calculated on the basis of the average of the price of the produce during a period of 5 years commencing from the 1st day of June, 1935. The compensation is payable by the tenants (adna maliks) to the ala maliks. So, there is no financial liability on Government.

In *Himachal Pradesh*, the basis of compensation is the net annual income received by a landholder or a tenant whose rights and interests are acquired under the Act. The net income is arrived at by deducting from the gross annual income

- (a) any sum payable by the landowner to Government in the previous agricultural year as revenue or rent, cesses and local rates; and
- (b) cost of management and irrecoverable arrears of rent or cost of cultivation equal to 15% of the gross annual income.

The principles of compensation as embodied in the Schedule attached to the legislation are as follows. Compensation shall be paid by Government for the land on which the assessed land revenue exceeds Rs. 125 per year except in the case of the Chamba district where compensation is to be paid by Government for the land taken in excess of 30 acres at the following rates:—

<i>Net annual income</i>	<i>Multiples of income payable as compensation</i>
(a) upto Rs. 500 ..	12
(b) exceeding Rs. 500 and upto Rs. 1,000 ..	8 multiples or Rs. 5,000 whichever is greater.
(c) exceeding Rs. 1,000 and upto Rs. 2,000 ..	5 multiples or Rs. 8,000 whichever is greater
(d) exceeding Rs. 2,000 ..	2 multiples or Rs. 10,000 whichever is greater

The above scale is applicable to a proprietor other than a tenant. But in the case of a tenant, only one-half of the amount so calculated is payable.

Amongst all these Acts, the *Madras Act* strikes a different note. It adopts the “basic annual sum” as the basis of assessment in contradistinction to the concept of “net income” adopted by Bihar, Orissa, Madhya Pradesh and Assam. The basic annual sum is 1/3rd of the gross annual ryotwari demand minus 5% of the gross ryotwari demand on account of establishment charges, deficiencies in collection and the like and 3 1/3% on account of maintenance of irrigation works in the estate. Thus, the basic annual sum is not the net revenue realised by the Zamindar, nor even the whole of the ryotwari demand as would be computed by the Settlement Officer but one-third of the latter minus certain deductions. Consequently, it is reduced to 1/4th of the gross annual ryotwari demand. This is the

general principle adopted in the determination of the basic annual sum in most of the estates, although slight modifications have been introduced in respect of the inam estates, the under tenure estates (granted before the date of permanent or temporary settlement of the principal estate or before the 13th July 1802) and the inam estates held by religious, educational and charitable institutions. Thus, the basic annual sum so worked out is found to be less than any of its counterpart in other States.

After fixing the basic annual sum in the above manner, Government has provided in a liberal manner the multiples of such a sum payable as compensation. The scales of compensation are as under :—

Group		Basic annual sum		Multiples allowed.
1.	upto	Rs. 1000		30
2.	Exceeding	Rs. 1000 but not exceeding	Rs. 3000	25
3.	"	Rs. 3000 but not exceeding	Rs. 20000	20
4.	"	Rs. 20000 but not exceeding	Rs. 50000	17½
5.	"	Rs. 50000 but not exceeding	Rs. 1 lakh	15
6.	"	Rs. 1 lakh		12½

In the 5th and 6th groups, a ceiling has been placed on the compensation irrespective of the sum calculated on the basis of the multiples. It is respectively Rs. 8,75,000 and Rs. 15,00,000. The multiples fixed for each income group are claimed to be higher than the corresponding figures in other States.*

To the religious, educational and charitable institutions, the Act accords a differential treatment in that a special cash allowance called the tasdik allowance is payable to the institutions every year as follows :—

- (a) the basic annual sum, in the case of an entire inam village, and
- (b) a portion of a basic annual sum, in the case of a part of an inam village.

Such tasdik allowance is payable so long as the institution exists.

The compensation payable under the Act is to be deposited in the office of the Tribunal and apportioned by the Tribunal.

* Dr. B. Natarajan's article in the Indian Journal of Agricultural Economics, March 1953, p. 110.

The Act contains two novel provisions not found in any other Acts. The Act was amended in 1950 and two new sections 54-A and 54-B were added to provide for (a) advance payment of compensation and (b) additional compensation. Section 54-A provides that in the case of the estates other than the religious, educational or charitable institutions covered by section 38, Government shall estimate roughly the amount of compensation payable in respect of the estate and deposit in the office of the Tribunal one-half of the amount within six months from the notified date, as advance payment of compensation. From this amount, Government is entitled to make certain deductions on account of Government dues, peshkash, etc. As regards additional compensation, section 54-B provides that after the amounts of compensation payable for all the Zamindari estates are finally determined, if it is found that the aggregate amount falls short of Rs. 12½ crores, Government is under an obligation to distribute amongst the Zamindari estates an amount equal to that by which the aggregate so falls short. The distribution of the additional compensation will be pro rata on the amount a person is entitled for his estate. The amount is to be deposited in the office of a Tribunal and this is to be deemed a complete discharge against all outstanding claims.

The *Mysore* legislation adopts an entirely different pattern of compensation payable to the inamdars for extinguishment of their inam rights. The unit of calculating compensation is the entire inam and not the separate interests involved therein. The inamdar is entitled to get compensation from the sources and persons stated below.

<i>Compensation by whom payable</i>	<i>Amount of compensation payable</i>
(1) kadim tenants ..	20 times the amount of rent
(2) permanent tenants ..	75% of the premium received by Govt. as specified in the Schedule appended to the Act.*

* The Schedule classifies lands into garden, wet and dry as situated within several talukas in the State. For each category of land, a value in terms of multiples of the land revenue is prescribed along with the basic value of the land per acre. The compensation is payable according to the provisions in the Schedule.

<i>Compensation by whom payable</i>	<i>Amount of compensation payable</i>
(3) Government .	(a) Rs. 75 per acre if the lands vested in Government are within the municipal limits of cities of Bangalore, Mysore and Davangere and within an area of one mile from such limits. (b) Rs. 40 per acre within the municipal limits of Kolar, Tumkur, Chitaldrug, etc. (c) Rs. 20 per acre in all other areas.
(4) persons holding minor inams ..	a sum equal to 20 times the jodi, quit-rent or other amount received by the inamdar.
(5) any person registered as occupant under sections 4 to 8 in respect of lands other than those referred to in (3) above ..	a sum equal to 10 times the average net annual income during a period of 5 years before vesting.

In calculating the above amounts, the incomes from sandalwood or any other forest produce, royalty on minerals or mining leases and ferries are not to be included unless such rights were expressly granted to the inamdar.

Compensation to holders of minor unenfranchised inam, who are not registered as occupants is payable at a sum equal to ten times the average net annual income derived by him from the lands during 5 years immediately preceding the date of vesting.

In short, the Act has adopted different quanta of compensation according to the nature of rights extinguished or modified under the Act.

The *Saurashtra* Act has quite a novel method of payment of compensation. Under the *Saurashtra Land Reforms Act*,

1951, compensation payable to the Girasdars for vesting their estates in Government is as follows:

- (a) occupancy price equal to six times the assessment paid by tenants, and
- (b) annual assessment by such tenants (occupants) for a period of 15 years.

In short, the total amount of compensation will be 21 times the assessment of the lands held by the tenant-occupants. It is understood that there are 55,000 Girasdari tenants who will be left with 12,00,000 acres of lands in their possession in respect of which they are entitled to acquire the occupancy rights on payment of six times the assessment. At this rate, the total amount of occupancy price is estimated at Rs. 2,52,00,000. This amount will be paid by the tenants to the Girasdars. Arrangements have been made for advance of loans to cultivators through the Land Mortgage Bank to enable the tenants to acquire occupancy rights by paying this amount as early as practicable.

The fundamental fact of the *Kashmir* land reforms is that the landholders are expropriated and dispossessed of their lands without payment of compensation. The Consenbly of the State appointed in November 1951 a Land Compensation Committee which took the view that the payment of compensation to the expropriated land owners was not desirable both in principle and policy. On 26th March 1952, the Consenbly ordained that no compensation should be paid in respect of the land from which the land owners have been expropriated under the Act. This decision is hailed "as an outstanding contribution to the cause of social justice and social stability which the present Government are determined to extend to the masses."*

The *West Bengal* Estates Acquisition Act, 1953 provides for payment of compensation on the basis of "net income". This income is calculated on the gross annual income derived from the estates in the previous agricultural year minus land revenue, cesses or rent to the State, the cost of irrigation, protective works or collection of dues. The compensation is calculated on a sliding scale. Small estate-holders will receive

* *Kashmir Government: Land Reforms*, p. 21.

more in proportion to their income than the big estate owners.

The scale of compensation is set forth below:—

Group	Net Income	Multiples of net income payable as compensation
1.	For the first Rs. 500 or less ...	20
2.	For the next Rs. 500 or less ...	18
3.	For the next Rs. 1,000 „ „ ...	17
4.	For the next Rs. 2,000 „ „ ...	12
5.	For the next Rs. 1,000 „ „ ...	10
6.	For the next Rs. 15,000 „ „ ...	6
7.	For the next Rs. 80,000 „ „ ...	3
8.	For the balance of the net income	2

The above scale is for the ordinary intermediaries. But where the whole or part of the intermediary interest is held under a bona fide trust or other legal obligation for an exclusively charitable or religious purpose, the compensation is payable in perpetual annuity equal to the net annual income of the interest.

In a nut-shell, the bases and rates of compensation in different States are set forth below:—

Name of the State (1)	Basis of assessment of compensation (2)	Rate of compensation. (3)
1. U. P.	... not assets	8 times the net assets.
2. Bihar	... net income	varies from 20 to 3 times the net income for Rs. 500 to Rs. 1 lakh and more.
3. Orissa	... do	varies from 15 to 3 times the net income of Rs. 500 to Rs. 40,000 and more.
4. Madhya Pradesh	... do	10 times the net income.
5. Madhya Bharat	... do	8 times the net income.

Name of the State (1)	Basis of assessment of compensation (2)	Rate of compensation (3)
6. Assam ...	net income	15 to 3 times the net income for Rs. 1000 to Rs. 3 lakhs and more.
7. Punjab ...	annual rent and other dues.	8 times the rent and dues.
8. Pepsu ...	do	12 times the rent including rates and cesses.
9. Madras ...	basic annual sum	30 to 12½ times the annual basic sum for Rs. 1000 to Rs. 1 lakh.
10. Mysore ...	(a) annual rent (b) land revenue (c) value of land	(a) varying from 20 to 75 times. (b) varying from 15 to 50 multiples. (c) Rs. 20, 40 or 75 per acre.
11. Saurashtra...	land revenue	6 times plus 15 times the assessment of the lands.
12. Jammu & Kashmir ...	no compensation is payable.	
13. West Bengal	net income	20 to 2 times the net income for Rs. 500 to an amount exceeding Rs. 1 lakh.
14. Himachal Pradesh ...	net income	12 to 2 times the net income for Rs. 500 to a sum exceeding Rs. 2000.

It is crystal clear that not only the bases of assessing compensation are different in the different States but even the rates of the net asset or income, etc., also differ; so also the persons paying the same to the zamindars and the estate-holders.

10. *Payment of compensation.*

The payment of compensation is a part of the implementation of the Acts, but as it is vitally related to the bases and the rates of assessment discussed above, it is proposed to dwell upon this aspect here. The problem has two facets:—

- (a) the aggregate amount of compensation, and
- (b) the interim payment and their rates.

(a) The second aspect depends upon the first which in turn depends upon the extent of the areas, rights and interests acquired under a particular legislation.

From the statement given below, it will be clear that the U.P. and Bihar Governments, which seek to abolish and acquire all rights and interests in the zamindari villages will have to pay the highest amount of compensation; whereas the smaller States of Himachal Pradesh, Punjab, Assam and Mysore, whose attempts at abolition are modest, have to pay the lowest.

These measures are likely to bring additional land revenue in consequence of levy of full assessment on the lands which were hitherto wholly or partially exempt from payment of assessment. For the initial few years, the additional land revenue will not be as much as it is shown in the following statement, because Government will have to make alternative administrative arrangements in the shape of additional staff, introduction of survey, settlement and the Record of Rights. The amounts of the aggregate compensation and the additional land revenue are summarized Statewise below:

State (1)	Aggregate amount of com- pensation in crores. (g) (2)	Additional land revenue likely to accrue to Govern- ment (in crores). (3)
1. U. P.	160	12(a)
2. Bihar	158(b)	6.5
3. Orissa	9	.44
4. Madhya Pradesh (excluding merged areas)	4.80	.94
5. Madhya Bharat	10.65	8.91(c)
6. Assam	5	.20
7. Madras	17.15(d)	1
8. Mysore	1.50(e)	N.A.
9. Saurashtra	7.98(f)	.39(f)
10. Jammu & Kashmir	no compensation	N.A.
11. Punjab	Nil	N.A.
12. Pepsu	Nil	N.A.
13. West Bengal	24.	N.A.
14. Delhi	N.A. (negligible)	.01
15. Ajmer Merwara	do	.20
16. Himachal Pradesh	N.A.	N.A.

(a) The Agricultural Situation in India, October 1952.

(b) The Indian Journal of Agri. Economics, March 1953, p. 162.

(c) Ibid p. 189.

(d) Ibid p. 110.

(e) The Mysore Land Revenue Reforms Committee, 1951.

(f) The Indian Journal of Agri. Economics, March 1953, p. 169.

(g) Vii; A. N. Financial Aspects of the Abolition of Zamindari, p. 11.

The compn. payable to the Girasdars in Saurashtra is to be borne by tenants partially i.e. amount of Rs. 2.52 crores on account of the occupancy price and the rest is to be borne by Govt.

(b) *Method of payment.*

The methods of payment vary in different States. The original intention was to make payment in cash only. But when the full financial implications of the legislation were known, the State Governments were staggered by the colossal cost of compensation running into several crores. As a result, provisions have been made for payment of compensation in cash and/or bonds. At first, the non-negotiable and non-transferable bonds were the only form of alternative payment to cash compensation. But now in view of the political and administrative exigencies and anxieties of Governments to avoid inflationary pressures, the Reserve Bank of India has advised the State Governments to make payment of compensation only in transferable bonds bearing 3% interest redeemable during a period of 20 years in equated annual instalments of principal and interest. The Government of India has approved of this policy and issued directives to the State Governments to adopt this policy in payment of compensation in implementation of the land reform laws.

The U.P. Act provides for payment of compensation in cash or bonds or partly in cash and partly in bonds as may be prescribed. Recently, in view of the Government of India's directive, the State Government has decided to pay compensation in transferable bonds bearing $2\frac{1}{2}\%$ redeemable during a period of 40 years in equated annual instalments of principal and interest. Provision has been made for payment of interim compensation, if compensation payable is not determined before the expiry of nine months from the date of vesting. The rates are to be prescribed under the rules.

The *Bihar* Act follows the pattern of the U.P. Act in this respect. The interim payment may be made equal to a sum of 3% or $2\frac{1}{2}\%$ of the estimated amount of compensation according as the approximate amount of compensation does not or does exceed Rs. 50,000.

In *Orissa*, interest at $2\frac{1}{2}\%$ is payable on compensation amount and the compensation and the interest are payable on and from the date of vesting in *thirty* annual equated instalments. Provision has been made for payment of interim compensation of an amount equal to 1/30th of the estimated amount

of compensation. However, this amount is to be adjusted at the final payment of compensation.

The *Madhya Pradesh* Act provides for payment of compensation in the following modes, viz.,

- (i) in cash in full or in annual instalments not exceeding thirty;
- (ii) in bonds either negotiable or non-negotiable carrying interest at $2\frac{1}{2}\%$ from the date of vesting to the date of payment.

If the amount of compensation is not determined within six months from the date of vesting, an interim payment is to be made equal to 1/10th of the estimated amount of compensation.

In *Madhya Bharat*, compensation is payable in instalments not exceeding a period of ten years at an interest of $2\frac{1}{2}\%$ from the date of vesting to the date of payment. If compensation is not determined within a period of 12 months from the date of vesting, an interim compensation equal to 1/10th of the estimated amount of compensation is to be paid to the proprietor.

In *Assam*, the mode of payment is either in cash or bonds. If the amount payable is Rs. 2,500 or less, the entire amount is to be paid in cash. In other cases, $12\frac{1}{2}\%$ of the amount is to be paid in cash and the balance is payable in cash or bonds or partly in cash and partly in bonds. The bonds are either negotiable or non-negotiable and transferable. They bear interest at $2\frac{1}{2}\%$ and are redeemable in twenty equal annual instalments. The Compensation Officer has to pay interim compensation at $2\frac{1}{2}\%$ of the probable amount in cash every year till such time as the compensation statement is finally published.

In the *Punjab*, compensation is to be paid in cash to the party entitled to it or be deposited with the Collector by the adna malik or by Government, as the case may be, within 3 months from the date of the award. Government may however allow an adna malik to pay the compensation in such six monthly instalments payable within a period not exceeding six years. If the adna malik makes a default in payment, the dues are recoverable as arrears of land revenue.

In *Pepsu*, Government has taken the responsibility of payment of compensation to the landlords. Government may pay the amount of compensation within one year of the date of the Special Officer's award to the landlord in cash, if the amount does not exceed Rs. 250 and may issue bonds for an amount exceeding Rs. 250. The bonds will carry interest at 3%. The first Rs. 250 will have to be paid by the occupancy tenant in cash and the excess in instalments. The aggregate compensation payable by an occupancy tenant who pays *Batai* share is not likely to exceed the annual rent and will vary from Rs. 9 to Rs. 24 per acre.

In *Madras*, the rules framed under the Act provide for payment of compensation in cash to every estate. In the case of an estate other than a religious, charitable or educational institution,

- (i) if the basic annual sum of the estate does not exceed Rs. 3,000, the compensation is to be paid in one lump sum;
- (ii) if such a sum exceeds Rs. 3,000 but does not exceed Rs. 50,000, compensation is payable in equal annual instalments not exceeding three in number; and
- (iii) if such a sum exceeds Rs. 50,000, compensation is to be paid in equal annual instalments not exceeding three in number.

Interest at 3% is payable on the balance of compensation that remains on the date of the payment of the first instalment of compensation. Every payment of compensation shall be by way of a deposit in the office of the Tribunal. There are different methods of payment provided in the case of the *tasdik* allowances to religious, educational and charitable institutions. Provision has been made for interim payment of compensation to the financial landholder on the basic annual sum less the rents collected during every *fasli* year.

In *Mysore*, the compensation becomes due from the date of vesting and yields interest at $2\frac{3}{4}\%$ from that date. It is payable

- (1) in cash or in annual instalments not exceeding twelve;
- (2) in bonds either negotiable or not negotiable carrying interest at $2\frac{3}{4}\%$ and of guaranteed face value matur-

ing within a period not exceeding 12 years. If this compensation is not paid within a period of six months from the date of vesting, an inamdar is entitled to get interim compensation equal to 1/10th of the estimated amount of compensation.

However, the *Saurashtra* method of payment of compensation is unique in that the compensation is not to be paid to the Girasdars out of the State Exchequer but from the land revenue received from the cultivators. It is estimated that the approximate area of lands in respect of which compensation will be payable to the Girasdars is 12,75,000 acres. The annual payment of assessment will be paid to the Girasdars of 'A' class for 15 years, 'B' class for 18 years, and 'C' class for 21 years. The total amount of assessment which is likely to be recovered from the cultivators is put down at Rs. 9,37,12,500, which after deduction of suspension, remission, etc., may be taken at Rs. 8,37,12,500. The total amount of compensation payable to the Girasdars during 21 years will be of the order of Rs. 7,98,00,000. Thus, the Saurashtra Government expects a net gain of Rs. 39,12,000 during 21 years.* However, the figures for annual net gain from the date of the enforcement of the Act are not available. Perhaps, they might have told a different tale. What the Saurashtra Government loses in the immediate present and the future 15 or 21 years may be made good by the additional revenues that might accrue thereafter.

In *Kashmir*, the Act provides that the question of compensation should be settled by the Constituent Assembly and till such time, every proprietor who was expropriated from any land should be paid annuity in the following manner, viz.,

- | | |
|----------------------------------|---|
| (a) for the first year after ex- | an amount equal to $\frac{3}{4}$ th of land |
| propriation | .. revenue assessed on his land |
| | so dispossessed; |
| (b) for the second year | .. $\frac{2}{3}$ rd of such land revenue; |
| | and |
| (c) for the third and subse- | |
| quent years | .. $\frac{1}{2}$ of such land revenue. |

* B. R. Patel, I.C.S. : *The Indian Journal of Agricultural Economics*, March 1953, p. 169.

However, in no case, the amount of annuity is to exceed Rs. 3,000 per annum and will not be payable in respect of any area held or appropriated by a proprietor from the land recorded as Shamilat (village commons).

Such was the provision for interim payment of compensation made until the Council decided the question that it was not desirable to give compensation to the expropriated landholders.

In *West Bengal*, the method of payment of compensation is quite novel. The Act provides for payment of compensation partly in cash and partly in non-negotiable bonds carrying interest at 3% redeemable in 20 equal annual instalments. Besides the payment in cash and bonds, a provision has been made for payment in perpetuity annual bonds in the case of a part or whole of the interest of an intermediary held under a bona fide trust or other legal obligation for an exclusively charitable or religious non-profit purpose. The cash payment of the compensation is to be made according to the following table:—

Net income	Payment to be made in cash.		
(1) upto Rs. 250	100% of the amount of compensation payable in respect of such net income.		
(2) „ „ 500	50%	„	„
(3) „ „ 1000	45%	„	„
(4) „ „ 3000	40%	„	„
(5) „ „ 5000	30%	„	„
(6) „ „ 30,000	25%	„	„
(7) „ „ 1 lakh	20%	„	„
(8) „ „ 2 lakhs	15%	„	„
(9) and above	12%	„	„

After making payment of compensation in cash as above, the balance of compensation, if any, is to be paid in non-negotiable bonds carrying interest at 3% redeemable in 20 equal annual instalments as stated above.

The Act provides for payment of *ad interim* compensation equal to 1/3rd of the net approximate annual income from the estates or interests subject to the condition that the first annual ad-interim payment should be made within 18 months from the date of the vesting.

In short, the rates of interim payments of compensation differ in different States and are tabulated below for comparison :—

State					Rates
1.	U. P.	...	...	...	(fixed under the Rules).
2.	Bihar	...	...	...	3% or 2% of Rs. 50,000.
3.	Orissa	...	...	...	1/30th of the estimated amount.
4.	Madhya Pradesh	...	...	...	1/10th of the estimated amount.
5.	Madhya Bharat	...	...	...	do
6.	Assam	...	...	...	2½% of the estimated amount.
7.	Punjab	...	...	...	Not necessary.
8.	Pepsu...	...	...	...	do
9.	Madras	...	...	...	Basic annual sum minus rents collected during every fasli year.
10.	Mysore	...	...	...	1/10th of the estimated amount.
11.	Saurashtra	...	...	...	No interim payment necessary.
12.	Jammu & Kashmir	...	...	...	3/4th, 2/3rd and 1/2 of the land revenue of lands dispossessed, for 3 years only.
13.	West Bengal				1/3rd of the annual net income.

The above summary reveals the arbitrary manner in which the rates of interim payment of compensation have been provided in different laws.

11. *Rehabilitation grants.*

Apart from the payment of compensation to the proprietors or estate-holders, some of the Acts provide for payment of rehabilitation grants to the small proprietors or estate holders immediately after the vesting of the estates in Government. Such a provision is generally found in the case of the Acts which provide flat rates of compensation. Such grants have become necessary for two reasons, viz.,—

- (1) the payment of compensation is spread over years as many as 40 years in U.P. and generally it is in bonds redeemable during that period, and

- (2) the big Zamindars as in U.P., Bihar, Madhya Pradesh and Madhya Bharat, who used to receive huge annual revenues from their zamindaris, have been abruptly deprived of the revenues and find it difficult to alter their standards of life so suddenly.

Because of these reasons, the Acts of U.P., Madhya Pradesh, Madhya Bharat and Saurashtra provide for the immediate relief by rehabilitation grants to the small holders. Before discussing these provisions, it should be made clear that the Acts of Assam, West Bengal, Bihar, Orissa, Madras, Mysore and Kashmir have made no provision on this score, even though the States of Bihar, Bengal, Orissa and Madras had big zamindari estates.

Amongst the four States, which provide for the rehabilitation grants, the provisions of the U.P. Act are comprehensive and have been accepted as a model by Madhya Pradesh and Madhya Bharat. As usual, the Saurashtra pattern is all its own.

As regards *U.P.*, every intermediary (other than a thekadar) whose estate has been acquired is to be paid such a grant by Government. The under proprietors, sub-proprietors, permanent tenant holders and permanent lessees in Avadh are also entitled to such grants. The aggregate *land revenue* payable by such a person is made the basis of calculating the amount of the grant. If such an amount exceeded Rs. 10,000, no such grant is payable to him. It is payable from the date on which the compensation payable to the intermediary in respect of all his estates is determined. Special provisions have been made for assessment of the grants to all waqfs, trusts or for endowments which are classified in three categories, viz.,

- (a) waqfs, trusts or endowments which are wholly for religious or charitable purposes;
- (b) waqfs, trusts or endowments which are partly for religious or charitable purposes and partly for purposes other than religious or charitable; and
- (c) waqfs, trusts or endowments which are *wholly* for purposes other than religious or charitable.

But the waqfs, trusts or endowments made after the 8th August 1946 are not to be recognised. This provision seems to have been made to forestall any grant to the waqfs and trusts created with an eye to the partition of India.

Separate provisions exist for rehabilitation grants payable to intermediaries and waqfs and trusts. For the former, the amount of the grant is calculated on the multiples of the net assets as under:—

Group	Land revenue assessed or deemed to have been assessed on all the estates of the intermediary in the areas to which the Act applies.			Multiples of net assets.
(1)	(2)			(3)
1.	upto Rs. 25	Rs.		20
2.	Exceeding	25 but not	50	17
3.	„	50 „ „	100	14
4.	„	100 „ „	250	11
5.	„	250 „ „	500	8
6.	„	500 „ „	2,000	5
7.	„	2,000 „ „	3,500	3
8.	„	3,500 „ „	5,000	2
9.	„	5,000 „ „	10,000	1

On this scale, the minimum amount of grant is Rs. 500 and the maximum Rs. 9,999.

In the case of the waqfs, trusts and endowments, the grant is not to be paid in lump but in form of annuities. The principles of calculating the annuities are generally the same as in the case of other intermediaries but with one difference. The annuity payable is to be equal to the net assets of all the estates comprised in the waqf or trust, less the amount of interest at $2\frac{1}{2}\%$ calculated on the amount payable to such waqfs, trusts or endowments.

The *Madhya Pradesh* and *Madhya Bharat* Acts have analogous provisions particularly because of the historical, geographical and administrative affinities. Like the U.P. Act, there is no

provision to make grants to all intermediaries, who have been divested of their estates. But the Acts restrict the payment to proprietors, who are divested of their estates and who earn their livelihood wholly or mainly from agriculture. However, in Madhya Pradesh such a grant is not to be paid to a proprietor if the amount of *land revenue* payable (1) for his share in the estate or mahal (2) his home-farm and (3) land revenue or rents payable on other lands held by him anywhere exceeds Rs. 60/-. The scale of the grant prescribed is as follows:—

Group	Aggregate sum of land revenue payable to Government.	Grant payable
(1)	(2)	(3)
1.	Sum does not exceed Rs. 25	Rs. 150.
2.	Exceeds Rs. 25 but not Rs. 40	6 times the aggregate sum.
3.	Exceeds Rs. 40 but not Rs. 60	Rs. 240 or five times the aggregate sum whichever is greater.

In the case of religious, charitable or public institutions vested in Government, Government may consider the grant of an annuity (if it is deemed necessary in the public interest) having regard to the following facts, viz.,

- (1) portion of the income used for the institution,
- (2) income from interest or otherwise from the amount of compensation,
- (3) income from other properties, etc.

The annuity so paid is subject to revision from time to time. The grant is payable from the date on which the compensation payable to the proprietor in respect of the property divested has been *paid and not determined* as in U.P. Every proprietor is to be treated as a separate unit for the purposes of the grant. Transfers of properties made on or after the 27th September 1946 are to be excluded from the assessment of the grant. Such grants are not liable to seizure or attachment in satisfaction of a decree or order of a court or authority. In all cases, applications have to be made to Government for such grants.

Like Madhya Pradesh, the *Madhya Bharat* Act lays down the condition of earning livelihood wholly or partly from agriculture as a condition precedent to the grant. Every such proprietor is eligible for the grant except a Supurdagidar, Mustajar, Sabiq Zamindar and Thekadar. Special Rehabilitation Grant Rules have been prescribed. Accordingly, the grant is payable as under:—

Group (1)	The proprietor paying annual land revenue to Government (2)	Multiples of net income payable as grant (3)
1.	Rs. Upto Rs. 25	12
2.	Exceeding 25 but not 50	10
3.	„ 50 „ „ 100	8
4.	„ 100 „ „ 250	6
5.	„ 250 „ „ 500	4
6.	„ 500 „ „ 2,000	2
7.	„ 2,000 „ „ 3,500	1
8.	„ 3,500	Nil

Thus, the minimum and maximum amounts of the grants payable are Rs. 300 and Rs. 3,500, respectively.

The provisions regarding the payment of annuities to the religious, charitable or public institutions are quite analogous to those in Madhya Pradesh and need not be repeated here. The grant is payable from the date on which the amount of compensation in respect of all the lands of the divested proprietor is *determined* and *not paid*, as in Madhya Pradesh. Every proprietor is treated as a separate unit. All transfers by sale or gift even to his wife on or after the 17th January 1949 are not to be recognised for the assessment of the grant. Such grants are not liable to seizure or attachment in execution of a decree or order of a civil court or authority. A proprietor has to apply to Government for such grant.

Lastly, the *Saurashtra* Act provides for payment of such grants to the Girasdars according to the following scale embo-

died in the Fourth Schedule (section 42). The basis is the multiple of assessment payable annually to a Girasdar.

<i>Class of Girasdars.</i>	<i>Amount of grant.</i>
A class	Nil
B class	3 additional instalments, each equal to one assessment payable annually after and in continuation of compensation payable under section 33 of the Act.
C class	6 additional instalments under the conditions provided for the B class Girasdars as above.

Thus, the scheme of rehabilitation grant is entirely novel and it is to be paid after but in continuation of the compensation payable to the Girasdars. The net effects of this provision are that the Girasdars will get compensation equal to the assessment of the land in possession of the tenant-occupants for the years indicated below:—

- (1) A class Girasdars for 15 years
- (2) B class Girasdars for 18 years
- (3) C class Girasdars for 21 years

This is perhaps the simplest method adopted for the payment of the rehabilitation grants. Such grants are not liable to seizure or attachment by a decree or order of a civil court or any authority.

In short, the scope of rehabilitation grants in U.P. is more comprehensive than in other States. Generally, the States adopt land revenue payable by a zamindar as the basis of the grant. U.P. adopts as the basis the multiple of 'net assets'; whereas Madhya Bharat adopts the 'net income'. In Madhya Pradesh, the slab system based on the multiple of the aggregate sum payable is taken. The Saurashtra scheme is a continuation of the process of the payment of compensation.

12. *Debt settlement.*

After abolition and acquisition of the Zamindari estates, it was considered necessary that some machinery should be provided for the settlement of the Zamindars' debts. Because of the abrupt reduction in the Zamindars' assets, this problem became more urgent and assumed serious proportions in view of the inevitable time-lag between the vesting of the estates in Government and the determination and actual payment of compensation by Government. As the Zamindaris were a losing concern, the creditors, who were somnolent so far, awakened to the need of realizing their loans or monies as early as they could. This attitude of the creditors drove the Zamindars into a perilous plight. In view of this situation, some of the Zamindari Abolition Acts provide for payment of the Zamindars' debts incurred before the enforcement of the laws. Some Acts like those of Bihar, Orissa, Madhya Pradesh and Madhya Bharat devote a separate chapter each and provide machinery for settlement, whereas the Acts of Assam, Madras, and Mysore content themselves by providing payment of the debt from the total amount of compensation at the time of apportionment. However, the Acts of Saurashtra and Kashmir make no provision at all in this respect. U.P. however stands out in this regard, as it has enacted a special legislation called the U.P. Zamindars' Debt Reduction Act, 1952.

It is therefore proper to begin with the *U.P. Zamindars' Debt Reduction Act, 1952*. The U.P. Zamindari Abolition Committee* considered it sound and equitable that the landlords' debts should be reduced in proportion to the reduction to the value of their lands consequent upon the abolition of the zamindari. The U.P. Zamindars' Debt Reduction Act, 1952 has been enacted in order to scale down secured debts of the Zamindars at the time of decreeing a suit or of a decreed debt before the execution thereof. After scaling down the secured debts, the reduced amount is to bear to the original debt the same proportion as the multiples of net assets fixed for calculating compensation for the acquisition of Zamindari rights plus the multiples of rehabilitation grant admissible to

* Report of the U. P. Zamindari Abolition Committee 1949, Chapter XVII.

the debtor fall bear to the multiples prescribed under the U.P. Encumbered Estates Act for the area in which the Zamindari is situated. In the case of attachment and sale of the zamindari compensation bonds for recovery of unsecured debts, the Act provides for the reduction of unsecured debts. Provision has been made to the effect that a sum equal to one-fourth of the compensation and rehabilitation grant should be left to the debtor. There is no denying the fact that the provisions are very favourable to the Zamindars; but it is alleged that the assistance has been made available to them at the expense of the money-lenders.

The provisions of the Acts of Bihar, Orissa, Madhya Pradesh and Madhya Bharat are more or less similar in this respect. The Bihar Act provides that secured creditors should apply, within six months from the date of vesting, to the Claims Officer for the determination of the amount of his debt. The Claims Officer has to inquire into the claims and determine the priorities between two or more creditors. An appeal against the Claims Officer's decision lies to the Special Board constituted for the purpose. The decisions of the Board and where no appeal has been preferred to the Board, the decision of the Claims Officer is final.

Unlike the Bihar Act, the *Orissa* Act provides for settlement of claims of secured creditors and maintenance-holders in the primogeniture estates. Such creditors and maintenance holders have to apply within 6 months to the Claims Officer for determining the amount of debt and the maintenance allowance claimed for. Except the provision for the maintenance allowances, the provisions follow the pattern of the Bihar Act.

Perhaps, the *Madhya Pradesh* Act contains comprehensive provisions for determination of debts. Creditors have to submit their claims to the Claims Officer within 6 months of the vesting of the estates in Government. After making inquiries and having regard to the priorities of debts between different creditors, the compensation payable to the proprietor is to be distributed between the secured creditors in the order of their priority. In doing so, he is to be guided by the provisions of the Transfer of Property Act, 1882. If the Claims Officer finds that the amount of compensation is not sufficient to satisfy the claims,

he will make an order about the unpaid amount of their claim. This unpaid amount could be realized by obtaining a civil court decree. Against the Claims Officer's order, an appeal lies to the Board of Revenue whose decision is final.

The provisions of the *Madhya Bharat* Act are practically analogous to those of Madhya Pradesh.

Under the *Madras* Act, after compensation has been determined and apportioned amongst the persons such as the principal landholder, any other person whose rights or interests in the estate stand transferred to Government, etc., the Tribunal has to consider the claims of creditors and decide the amount to which they are entitled and the person or persons out of whose share or shares of the compensation, such amount should be paid. The *Mysore* provisions are quite similar except that instead of the Tribunal, the Deputy Commissioner has to consider the claims of creditors and apportion the share or shares out of the compensation.

Lastly, in *Assam*, a creditor is to be paid out of the amount of compensation to the extent of the claim allowed by the Claims Officer and the balance of compensation is to be paid to the proprietor or tenure-holder or the co-sharer therein. However, if the claim allowed exceeds 75% of the total compensation payable to such proprietor or co-sharer, the creditor is to be paid not more than 75% of such compensation money. Against the Claims Officer's decision, an appeal lies to the District Judge and a further appeal to the Judge of the High Court of Assam.

A press-report* states that as a result of the land reforms, most of the Girasdars in *Saurashtra* have lost a major part of their holdings to tenants and some of them are said to be in financial distress. In order to provide temporary relief to the Girasdars in debt, the Rajpramukh has issued an ordinance exempting lands allotted to the Girasdars as gharkhed and the amount of compensation payable to them by tenants from liability to seizure, attachment or sale in execution of decrees obtained by any creditor other than Government.

In short, the State Governments have considered it expedient to provide for the debt settlement of the Zamindars, who are allowed, after settlement, to retain 1/4th of the amounts

* The Times of India dated 13-7-1953.

received as compensation or rehabilitation grants. The extent of their debts is not known.

13. *Implementation.*

The next important question is about the implementation of the Acts passed by the States.

The implementation has two aspects, viz.,

- (a) determination of compensation, and
- (b) alternative administrative arrangements.

The question of determination of compensation has already been discussed above. In the nature of things, it takes time to inquire and determine the compensation claims which are in most cases complicated. As regards the administrative arrangements, Government has to take immediate steps to fill in the administrative vacuum created by the zamindari abolition. At many places like Bihar, the entire village administration consisting of village servants and the records is required to be set up.

Before the Acts could be enforced, the zamindars and tenurial holders challenged the validity of the Acts on the two main grounds, viz.,

- (a) incompetence of the State Legislatures to enact the laws, and
- (b) inadequacy of the quantum of compensation.

The validity of the Acts could be challenged because of the provisions contained in Articles 14, 19 and 31 of the Indian Constitution. Articles 14 and 19 relate to a person's right to hold property; whereas Article 31 provides that no property shall be acquired without payment of compensation. As a result, when the State Legislatures enacted laws for acquisition of the zamindari and other estates, it was urged that such legislation encroached upon the fundamental rights of the Zamindars.

We have already seen in the previous chapters that the validity of the Bombay laws abolishing the Talukdari, Maleki, Ratnagiri Khoti, Salsette Khoti, Paragana and Kulkarni Watans was already challenged without success. Now, we may briefly review the measures adopted by the Zamindars to challenge the validity

of the Acts in different zamindari-ridden States. Amongst the Zamindari Acts challenged, the Bihar Act comes naturally first in as much as very important consequences flowed from it. The Bihar Abolition of the Zamindaris Act, 1948 was assented to by the President on the 6th July 1949 and published in the Gazette. Certain landlords challenged the validity of the Act and the Court issued injunction restraining the State Government from implementing it. Subsequently, the aforesaid Act was repealed and a new legislation called the Bihar Land Reforms Bill, 1949 was passed. The Bill received the President's assent in pursuance of the provisions of Articles 31(4) and 254 of the Constitution and was published as the Bihar Land Reforms Act, 1950. The landlords challenged the validity of this Act also and the Patna High Court declared it unconstitutional and void on the ground that its provisions contravened the provisions of Article 14 of the Constitution. The matter was then considered afresh with the Government of India, which decided to amend the Constitution to tide over the difficulty. The Constitution was accordingly amended by the enactment of the Constitution (First) Amendment Act, 1951, by which two Articles 31-A and 31-B were added. The amendment was made in order to remove the snags and accelerate the tempo of implementation of the land reforms.

Article 31-A runs as under:—

“Notwithstanding anything in the foregoing provisions of this part, no law providing for the acquisition by the State of any estate or of any rights therein or for the extinguishment or modification of any such rights shall be deemed to be void on the ground that it is inconsistent with or takes away or abridges any of the rights conferred by any provisions of this Part; etc.” Article 31-B validates certain Acts and Regulations already passed by the States. This provision validated the Acts of Bihar, Madras, Bombay (Talukdari and Khoti), etc., notwithstanding any judgment, decree, or order of any court or Tribunal to the contrary.

Although this amendment to the Constitution was passed in order to expedite implementation of the Zamindari laws, it could not silence the zamindars, who challenged its validity in the Supreme Court. The Court restrained the State Govern-

ment from proceeding with the taking over of the estates in implementation of the Act. The Supreme Court ultimately decided that the Constitution (First) Amendment Act, 1951 was a valid law. Immediately thereafter, the State Government decided to take over all the estates and tenures with gross annual income exceeding Rs. 50,000 in the first lap of implementation. The Zamindars, however, again succeeded in delaying the implementation of the scheme by preferring an appeal to the Supreme Court against the decision of the Patna High Court to the effect that the Act was not defective on the ground of lack of legislative competence and public purpose. As a result, the Supreme Court issued an injunction against the taking over of the estates. On May 2, 1952, the Constitution Bench of the Supreme Court held the Act to be a valid legislation barring a part* of section 4(b) and section 23(1)(f), which were severable from the rest of the Act. Inter alia, the Court held that the purpose of the Act was the distribution of resources, as concentration of big blocks of lands was contrary to the principles, on which the Constitution was based. The acquisition of the estates was aimed at doing away with this anomaly. The Zamindars were not quieted by the decision. The Raja of Ramgarh filed in October 1952 a petition for the review of the said decision; but the Court rejected the petition, as it was merely an attempt at "revivification of a dead thing."

After these difficulties were over, the Bihar Government decided in November 1952 to take over all Zamindaris from April 1, 1953 irrespective of their incomes in compact blocks in the four districts of Darbhanga, Monghyr, Gaya and Hazaribag. 146 estates have already been taken over or are in the process of being taken over. Considerations of economy and efficiency have however led Government to revise its plans in favour of the zamindari abolition in blocks in the aforesaid areas.†

The Bihar Land Reforms (Amendment) Act, 1953 has been passed by the State Legislature with the object of facilitating the taking over of the estates and to evolve a machinery for the speedy determination of compensation payable under

* Section 4 (b) vested arrears of rent due to the Zamindars in the State. Section 23 (1) (f) provided for deduction of cost of management from the income of the estate on which the quantum of compensation was to be based.

† The Agricultural Situation in India, January 1953.

the Act. Provision has been made to penalise all vexatious intermediaries, who withhold their co-operation in the settlement of compensation. The concessions to the Zamindars in respect of markets, bazaars and tanks have been deleted, as they are harmful to the interests of the public. Secondly, the mining and mineral leases of the holders, who did not make use of them before the original Act came into force, are proposed to be terminated.

As if the troubles with the Act were not enough, an application was made by the Motipur Zamindari Ltd., Raja Jankinath Roy and Narendranath Roy and Co. urging that the Act did not apply to the Zamindaris owned by the companies. The Supreme Court has held that the Act does not purport to differentiate between zamindaris held by persons and companies.

Apart from a series of legal troubles, there have been serious administrative difficulties in implementation. Bihar was a permanently settled State with the result that the entire administration and records were with the Zamindars. On abolition of the estates, there was no administrative machinery to implement the Act. Consequently, Government has appointed Karamcharis (village accountants) in charge of 10 or 12 villages grouped under a Halka (seza). Over the Kamarcharis, circle inspectors, and sub-divisional officers are appointed. At the top, an additional Collector has been appointed in each district to assist the Collector in general administration and other duties.*

The *Orissa* Act came into force on November 11, 1952. Like the Bihar Act, it was also challenged by the Maharaja of Parlakimedi and other Ganjam Zamindars on the grounds that many provisions relating to forests, private lands and buildings were expropriatory: that Government had played a fraud on the Constitution by enacting measures like the Agricultural Income-tax Act, the Orissa Tenants Protection Act, etc. It was urged that the Orissa Agricultural Income-tax Act was amended just at a time when the Estates Abolition Act was on the anvil of the Legislature so as to increase the agricultural income-tax from 3 annas to 12½ annas in a rupee. Further, the Orissa Tenants Protection Act passed subsequent to the Estates Aboli-

* The Indian Journal of Agri. Economics, March 1953, pp. 163-64.

tion Act authorized the reduction of rent payable by the tenants. The former step was taken to reduce the compensation payable to the Zamindars; whereas the latter was calculated to deflate the gross assets of the estate resulting in reduction of compensation. So the Act was alleged to be a fraud on the Constitution. On January 30, 1953, the Orissa High Court rejected the application and declared the Act valid. The Zamindars appealed to the Supreme Court on the same grounds. On May 29, 1953, the Supreme Court held the Act to be valid and rejected the appeals. It was held that the Act had the protection of Articles 31(4) and 31-A of the Constitution and that the question of inadequacy of compensation, therefore, could not be raised.

The legal troubles over, the State Government has now decided to take over all temporary settled estates which are 12,791 in number and necessary arrangements are under way. Government fixed the 15th August 1953 as the date on which those estates situated in the three coastal districts of Cuttack, Balasore and Puri should be taken over. Implementation was held up because of financial and other difficulties. All the permanently settled estates, which numbered 422, have been taken over by Government.

The *U.P.* Act was also challenged in the Allahabad High Court, which upheld the validity of the Act. The Zamindars went in appeal to the Supreme Court. In May 1952, the Constitution Bench of the Supreme Court passed a unanimous verdict upholding the Act. The arguments relating to the competence of the legislature and the public purpose mentioned in the Bihar judgment were held to apply to these appeals also. Mr. Justice Mahajan brushed aside Dr. Ambedkar's argument about compensation because it was based on the unwarranted assumption that as for the estates of the zamindars, the Part III of the Constitution stood repealed. According to him (Mr. Mahajan), it was an important and integral part of the Constitution and had not been repealed by Article 31-A. Once the President's assent was given, the law was assumed to have complied with the provisions of Article 31(2).

The Act came into force on 1st July 1952. It was applied, in the first instance, to the area of about 60.2 million acres

out of the total area of 72.2 million acres in the State. The break-up of the points is as under:—

<i>Category</i>							<i>Area</i>		
Cultivated area	...	...	...	...	...	...	37.3	million	acres
Fallows	...	...	...	...	...	...	3.1	„	„
Groves	...	...	...	...	...	...	1.3	„	„
Forests	...	...	...	...	...	...	2.9	„	„
Culturable waste	...	...	...	...	...	...	7.4	„	„
Uncultivable waste	...	...	...	...	...	...	3.6	„	„
Covered with water	...	...	...	...	...	...	2.7	„	„
Abadi sites, roads	...	...	...	...	...	...	1.9	„	„

The number of the Zamindars affected by the Act is about 20.17 lakhs, who had rights over 370 lakh acres of land. The number of cultivators affected is about 12.27 lakhs. Of the latter, an overwhelming majority is of small cultivators.

Under the Act, the Zamindari Abolition Fund has been instituted in order to enable tenants to acquire Bhumidhari rights on payment of ten times the rent. The fund was created in order to mobilize the savings of the tenants and feed the said fund. The tenants who contribute to this fund are to be classed as Bhumidhars and to have transferable rights in their holdings and have to pay only 50% of their existing rent. In future settlements, the revenue payable by a Bhumidhar is not to exceed one half of that payable by a sirdar. In order to give immediate effect to this provision, the Agricultural Tenants (Acquisition of Privileges) Act, 1949, was passed. By the end of December 1952, about Rs. 33 crores have been collected from the tenants. About 40,84,982 tenants applied for the Bhumidhari rights and declarations were issued in favour of 34,99,467.* The aggregate amount of the fund is hardly enough to meet 1/5th of the total amount of compensation (Rs. 160 crores). As Government has decided to pay compensation in bonds only, Government might utilize the amount for financing development schemes. Against this step, some critics have entered a caveat that the fund should not be frittered away in the pious name of development!

* The Agricultural Situation in India, October 1951.

In July 1952, Government announced that payment of compensation in cash would be made to those zamindars who are entitled to amounts upto Rs. 50,000 and that the remainder would be paid in non-negotiable bonds bearing interest at $2\frac{1}{2}\%$ and redeemable in 40 years. Interim compensation, it has been declared, would be paid within six months and not nine months as provided in the Act. Recently, press reports* indicate that those Zamindars, who carried on cultivation or had their groves and had therefore become Bhumidhars thereof could have their land revenue adjusted against compensation that they might receive annually from Government. Compensation bonds carry an interest of $2\frac{1}{2}\%$ so that a bond of Rs. 100 will be satisfied by a payment of four rupees a year over a period of 40 years to the bond holder or Rs. 160 in the total. The idea is that instead of paying Rs. 4 every year to Government on the one hand and receiving Rs. 4 as compensation on a bond of Rs. 100 on the other, the two payments can, if the Zamindar so chooses, be adjusted against each other. Secondly, if an intermediary held tenancy land and has become a sirdar under the Act, he stands to gain further. In lieu of Rs. 100, he will not only be entitled to a reduction of Rs. 4 in land revenue; but also to all other rights of a Bhumidhar. This means that a sirdar paying land revenue of Rs. 8 can acquire Bhumidhari rights in his holding in lieu of a bond of Rs. 100 to which he may be entitled.

Subsequently, certain other developments relatable to the Act have taken place. Government has passed the U.P. Urban Area Zamindari Abolition Act, 1950 to abolish the Zamindaris in the urban areas. This legislation is meant to supplement the U.P. Zamindari Abolition and Land Reforms Act, which applies to the Zamindaris in the rural areas. It covers the agricultural lands lying within the limits of the municipalities, cantonments and notified areas and seeks to acquire the rights of intermediaries in all such areas, i.e. lands held by fixed-rate tenants, exproprietary tenants, occupancy tenants, tenants holding special terms in rent-free or favourable rate grants. It does not interfere with the possessions and the rights in the built-up areas, uncultivated lands and sir and khudkast

* The Amrit Bazar Patrika of 12-6-1953.

lands of the proprietors. The principle of compensation is, however, different. The cities, towns and the cantonments have been divided into 7 categories according to their importance and population. And compensation varying from 12 to 25 times the net assets was provided in the Bill. But the Select Committee did away the graded scale and recommended a uniform rate of 12 times the net profits as compensation. The thekadars are entitled to a portion of the compensation.

Further, Government has enacted the U.P. Land Reforms (Supplementary) Act, 1952 which aims at protecting the rights of persons, who have been in cultivating possession of lands in the holdings of Bhumidhars and sirdars. The Act declares such persons as Adhivasis, entitling them to the same rights, as provided in the principal Act.

Besides, Government has framed rules regarding the formation and functioning of the Land Management Committees to be set up under the Act. The Committees have been authorized to let out vacant lands and their main function would be the management of uncultivated lands and forests and preservation of tanks, etc. These Committees will also assist the collection of land revenue. As an experimental measure, 300 panchayats have been entrusted with the work of land revenue collection.

According to the press report,* 19,100 sq. miles of private forest and waste lands held by the intermediaries have been vested in Government after 1-7-1952.

Before abolition of the zamindaris, the annual revenue of the State was Rs. 7 crores; but now an annual increase of Rs. 12 crores on this account is anticipated.

During December 1952, an amendment to the Act was considered by the Select Committee of the U.P. Legislative Assembly. It suggested that the landless labourers and sub-tenants (asamis) owning no land should be given first priority in the distribution of land now broken or which is lying fallow or which is henceforth vacated by its present holders. It gives second priority to landless labourers. The amendment was passed by the State Legislature in February 1953. It has also

* The Times of India of 26-7-53.

passed the Jaunsar Bawar Security of Tenure and Records Bill, which provides for security of tenure and preparation of land records in Paragana Jaunsar Bawar of the Dehra Dun district.

From April 1953, Government has started paying interim compensation to the Zamindars. The first instalment is to be equal to six-month's instalment of land revenue subject to deductions for arrears of Government dues like land revenue, agricultural income-tax, etc.

The *Madhya Pradesh* Act was brought into force in April 1951. It was challenged by the Maharaja of Bastar on the ground that his right had been guaranteed under the agreement entered into by him with the Government of India. The Act therefore did not apply to the State Rulers. The Nagpur High Court dismissed the Maharaja's petition and upheld the State's power to take over his property under the Act.

An appeal was preferred to the Supreme Court by the Malguzars and land-holders. It was urged before the Supreme Court

- (a) that the Act was not properly passed by the Legislature;
- (b) that the assent of the President as required in the manner prescribed under Article 31(3) had not been obtained;
- (c) that the Malguzari lands which were sought to be taken over under the Act did not fall within the definition of "estates" given in Article 31-A; and
- (d) that the Rulers' privileges as guaranteed could not be changed.

On the basis of the judgment in the Bihar applications, the Supreme Court dismissed the petition and upheld the validity of the Act. A sum of Rs 192 lakhs was paid in 1952-53 as compensation to the Malguzars. It is reported that they would get Rs. 279 lakhs as compensation before March 1954.

In implementation of the Act, serious complaints are made by the rulers and their dependants who are deprived of substantial incomes and left in the lurch. As a result, the Govt. of India has directed the State Govt. to grant "ex-gratia

compensatory allowance” to such persons during their lifetime. These dependants are of three categories;

- (1) those who were and are receiving monthly or yearly cash allowances for their maintenance,
- (2) those who were and are receiving cash allowances supplemented by the income from ‘muafi’ villages, and
- (3) who were mainly dependent on the income from ‘muafi’ villages.

According to the press-report,* the State Government has decided to grant “ex-gratia life allowances” to the members of the ruling families on the basis of the following principles:

- (1) The amount of allowance will be limited to the land revenue income lost under the Act after deducting 35 per cent towards management expenses. The State Government is now collecting revenue from these villages and the collection expenses will, therefore, be deducted from the total land revenue. An extra 50% of the allowance so arrived at will be paid to those dependants of rulers who have lost hereditary ‘muafi’ rights.
- (2) The allowances will be payable only if the dependants agree to forgo the claim to the compensation admissible to them under the Act. If any proportion of the compensation has already been paid to such dependants, it would be adjusted towards the proposed allowance. In the case of minors and limited owners, the consent of the guardians would be obtained for relinquishing the right to compensation.
- (2) The proposed allowance would be limited to the lifetime of the grantee and, on his death, his heirs would not be entitled to claim any yearly allowance or compensation.
- (4) Those who are already getting cash allowances would not be entitled to fresh allowance.
- (5) Consorts or sons of rulers who get privy purse would not be entitled to such allowance.

* The Times of India, dated 15th March 1954.

The allowances would be payable from April 1, 1951, the date of the enforcement of the Act. The amount required for the purpose is estimated at Rs. 1,47,000.

Although grant of such allowances to the dependants of the Rulers would add to the financial liabilities of the State, it would go a great way in allaying their anxieties and apprehensions. It is likely that the Madhya Pradesh precedent may lead such persons in other States to demand similar relief.

In *Madhya Bharat*, the Act came into force on July 25, 1951. About 8,600 zamindari villages covering an area of 18,636 sq. miles were held by 1,22,000 zamindars. They realized Rs. 2 crores and paid Rs. 1 crore to Government. The zamindars challenged the validity of the Act in the High Court with the result that it could not be implemented till the middle of December 1951. For implementation of the Act, Government has established a Land Reforms Department under a Commissioner of Land Reforms assisted by a Deputy Commissioner. Government has further sanctioned formation of 6 districts each under a compensation officer, who is to be assisted by deputy compensation officers and claims officers in addition to the land records staff.

The total amount of compensation will be of the order of Rs. 10 crores and an annual increase of land revenue from the zamindari lands will be Rs. 80 lakhs. This amount of land revenue is likely to increase steadily with the allotment of unoccupied lands to cultivators. The Zamindars' debts will be adjusted and settled out of the amount of compensation to be paid to them. The former tenants of the zamindars irrespective of the differences in their tenures have acquired the rights of patta tenants over the lands in their possession. These benefits have been conferred on those tenants without requiring them to contribute any thing towards the implementation of the measures as in U.P.

Considerable areas, which were waste and unoccupied have been vested in Government. Arrangements have been made to reserve sufficient lands for the common needs of the village in the matter of nishtar (grazing), while the remaining area is to be allotted to bona fide agriculturists in accordance with the Rules framed under the M.B. Land Revenue and Tenancy Act.

Provision has been made in the rules for allotment of land with a view to meeting the needs of the smaller tenants with uneconomic holdings and to the landless labourers anxious to take to agriculture. Now the entire State area has become ryotwari. By the end of January 1954, interim compensation amounting to Rs. 36 lakhs has been paid to the Zamindars.

The *Assam Act* was challenged in the Assam High Court by some proprietors even when it was in the Bill stage. At the end of the year 1952, the cases were withdrawn. It was announced in March 1953 that Government proposed to take over the zamindaris from 15th April 1953. A beginning was made by taking over some estates in the Goalpara district on 14-4-1953, as the first phase of implementation of the Act. Further developments are not known.

In *Madras* also, the zamindars challenged the validity of the Act on the ground that it was inconsistent with the fundamental rights embodied in Articles 19(1) and 31(1) of the Constitution and that the Act was ultra vires of the powers of the State Legislature. The Madras High Court granted temporary injunctions against implementation of the Act but subsequently some of the petitions were dismissed.* Government have planned to take over the estates in four stages. Within two years from the enactment of the Act, no less than 1724 out of 1938 notified estates have been completely taken over in four batches of 77, 587, 601 and 450 estates.† There are 214 more estates in respect of which the applications are pending in the Madras High Court. On the whole, the Act has been fully implemented so far as the adoption of the ryotwari system is concerned. There are about 25,000 sq. miles which are to be surveyed and settled. These operations are estimated to cost about Rs. 4 crores; but the cost will be spread over ten years. The erstwhile tenants of the zamindari area have become full-fledged owner-farmers and Government has begun collecting the ryotwari assessment in lieu of the Zamindari peshkash. It is claimed that as so great a reform has been

* Recently, the Constitution Bench of the Supreme Court has dismissed applications of the Zamindars challenging the validity of the Act.

† These figures are for the progress ending December 1952: *The Indian Journal of Agricultural Economics*, March 1953, p. 108.

achieved within so short a time, "the ghost of Lord Cornwallis might well turn in his grave".

About the progress of the *Mysore* land reforms, the revised Bill, 1953 as amended by the Select Committee has been recently passed by the State Legislature. After obtaining the Rajpramukh's assent, it will be enforced as an Act.

The implementation of the *Saurashtra* Act has two aspects; viz., (1) allotment of gharkhed lands to the Girasdars and (2) payment of compensation to the dispossessed Girasdars. Special Mamlatdars have been appointed for implementation of the Act. Besides, local committees with representatives of Girasdars and cultivators have been appointed in each subdivision. Nearly 60% of the Girasdars has been allotted gharkhed lands by the end of the year 1952. Owing to famine, however, cultivators in many parts could not pay occupancy price equal to six times the assessment for acquisition of occupancy rights. Government has therefore made provision to advance loans of the entire six assessments in scarcity areas and $4\frac{1}{2}$ assessments in semi-scarcity areas. Besides, the Co-operative Land Mortgage Bank has been established for this purpose. It has advanced an amount of Rs. 120 lakhs within a period of 2 months to nearly 18,000 tenants. Steps are being taken to allot gharkhed lands to the remaining Girasdars.

Before the implementation of the Act, Government used to receive assessment at 4 annas per acre from gharkhed land and at $12\frac{1}{2}\%$ (2 annas) of the assessment from non-gharkhed lands of Girasdars (and Barkhalidars). It is claimed on behalf of the Saurashtra Government that the implementation has been nearly complete and the change-over comparatively easy for the following reasons:

- (1) The land reforms were framed on the formula agreed to by the Girasdars and cultivators.
- (2) The compensation is payable by the tenants for a period of 21 years and not by the State. Consequently, Government has incurred no financial liability.

- (3) The Girasdars and the former tenants-at-will have become occupants. The result is that there are no intermediaries and no tenants.
- (4) In allotment of gharkhed lands, the maximum holding will be of 3 economic holdings i.e. 96 acres, say 100 acres on an average. Consequently, there will be no big holdings and a ceiling on the holdings is automatically achieved. In the khalsa areas, there are a few substantial holders.

However, the Government claim that the land reforms entail no financial liability on Government is not borne out by Prof. Vakil's "Economic Survey of Saurashtra" (pp. 87-89). The Girasdars are to get compensation from their tenants as follows:—

Amount of compensation
at six times the assess-
ment at Rs. 5 per acre

A class	...	Rs. 753 lakhs
B	„ ...	Rs. 720 „
C	„ ...	Rs. 405 „

Total: Rs. 1860 lakhs

Total: ...Rs. 1302 lakhs at assessment of Rs. 3-8-0
per acre.

The Barkhalidars are to be paid cash annuity or rehabilitation grants. The total amount works out to Rs. 3 crores. The impact on the finances of the State will be serious. In addition to these amounts, Government will sustain a loss of potential revenue on account of continuance of concession given in respect of the assessment on garkhed lands. The

extent of the concession is very considerable and spread over 21 years. It is tabulated below.

Class of Girasdars	Approximate area held as gharkhed in acres	Amount of land revenue payable for years	Total amount of concession to Girasdars or loss of revenue to Govt. at Rs. 3-8-0 per acre
B	6 or 6½ lakhs	(i) 4 annas for first 3 years (ii) 8 for next 3 years. (iii) half assessment for next five years.	Rs. 165 lakhs
C	4 lakhs	4 annas for 21 years. Total loss to Govt.	Rs. 273 lakhs. Rs. 438 „
Barkhalidars ...	2½ lakhs	(i) 4 as. for 4 yrs. (ii) 8 as. for next 6 years. (iii) half asstt. for 8 years Total loss to Govt.	Rs. 101 lakhs Rs. 539 lakhs.

In the result, Government will not get full assessment for the next 21 years and would involve Government into the revenue loss of Rs. 539 lakhs. Thus, it is not proper to maintain that Government has not to bear any financial liability on account of the land reforms in the State.

In Kashmir, the Act came in force on October 17, 1950. As no compensation is payable to the expropriated landlords, the implementation consists of allotment of 22½ acres of lands to landlords and 20 acres to cultivators and earmarking of the lands covered by orchards, etc. By April 1953, the Special Tehsildars, who have been appointed to implement the Act, have transferred 15,41,216 kanals of lands to 1,60,939 tillers and have vested an area of 7.40 lakh kanals in the State.* In distribution of the lands, first priority is given to such of the refugees as have not been settled in evacuee lands already. Land allotment committees are at work in the districts of Jammu, Kathua and Rajouri-Poonch. Second priority is given to landless people. It is estimated that a total area of 5,62,500

* The Sixth Year of Freedom (Aug. 1952 to Aug. 1953), pp. 58-59.

acres would be wrested from about 9,000 absentee landlords after allowing them 22½ acres each.* Thus, the Act has benefited 3/5th of the peasantry cultivating about 7 lakh acres out of the total cultivable area of 22 lakh acres in the State.† Steps are in progress to reconstruct records which have been found to be incomplete.

This Act was challenged by the Kashmir Agricultural Association, but the High Court of Jammu and Kashmir has dismissed the appeals. Mr. Justice Wazir observed that the portion in the Indian Constitution relating to the fundamental rights was not made applicable to Kashmir with the result that the fundamental rights of the people in that State were not recognised. The Act was therefore intra vires of the powers of Yuwaraj Karan Singh. Recently Government has appointed a 12-man Committee for reviewing the land laws of the State and suggesting changes therein.

At this stage, it would be appropriate to briefly state the legal points decided by the Supreme Court in the appeals against the Zamindari laws of Bihar, U.P. and Madhya Pradesh. To begin with, the effects of the laws are very far-reaching. The judgments should result in an early cessation of all litigation and obstructionism by Zamindars in India and, as a corollary to this, the rapid implementation of the abolition laws. The Zamindars as a class should now cease to find legal loopholes in the laws and offer co-operation in implementation. Secondly, it is held that removal of land concentrated in a few hands and its distribution for the common good constitute a public purpose. Thirdly, when an Act has been assented to by the President, it cannot be called into question.

From the survey of the implementation of the laws in different States, one fact is outstanding i.e. the validity of all Acts has been generally challenged by the zamindars. All efforts have been made to delay the implementation in one form or the other. But the amendment of the Constitution by insertion of Articles 31-A and 31-B have paved the way for quick and smooth enforcement of the Acts. Administrative arrangements are under way to fill in the administrative vacuum created

* The Agricultural Situation in India, August 1951.

† The Agricultural Situation in India, October 1952

in the wake of the zamindari abolition. Compensation inquiries are proceeding *pari passu* and steps for interim payment of compensation are being taken. Although the provisions exist for payment of compensation in cash and/or bonds, at the suggestion of the Reserve Bank of India, the Government of India has issued a directive to all the State Governments to pay compensation in transferable bonds carrying interest at 3% and redeemable during a period of 20 years in equated annual instalments of principal and interest. This method of payment has been adopted in order to avoid inflationary pressures on the financial sector.

14. *Criticism and suggestions.*

We have passed in review the zamindari abolition Acts of India and noticed certain broad facts which are summarized below :—

All Acts aim at abolition of the zamindari system and substitution of the ryotwari system. As a result, when all these laws will be fully implemented, there will be only one ryotwari land revenue system throughout India.

The abolition of the zamindari system involves abolition of certain categories of intermediaries, which formed a hierarchy in the land relationship in those zamindari estates. One may presume that with the zamindari abolition, there will not be any intermediary between Government and the actual tiller of the soil. The Acts, however, give a lie direct to this assumption, as they have continued in the possession of the zamindars lands under their home-farms called *gharkhed*, *khudkasht*, *sir*, *pannai*, *kambattan*, etc. Besides these home-farm lands, the existing proprietors are permitted to have lands if they are cultivated by power-driven mechanical appliances, orchards, grove lands, etc. Except in Assam, Kashmir, Himachal Pradesh, Bengal and Saurashtra, no limit has been placed or proposed on the extent of the area of the home farms of the erstwhile zamindars. The dangerous result of this has been that with the zamindari abolition laws in the offing, the zamindars have started a campaign to evict tenants holding lands for generations in order to add the same to the area of their home farms. In the result, the eviction

or expropriation of tenants is going on, on a scale unheard of before in the agricultural history of India.

This process of eviction has been accelerated by the provisions that tenants of certain categories are to be *recognized* or *conferred* rights of occupancy (bhumidhari, malik makbuzā, pucca tenancy or ryotwari patta rights) not on payment of the market value of the lands but on payment of certain multiples of rent or assessment of the lands concerned. The tenancy laws, which restrict rents and the rights of landlords to acquire and hold lands for personal cultivation, have quickened the pace of this process. The net result of all these provisions has been that landlords, who never thought of taking to agriculture before, have manoeuvred to acquire as much area as possible for their personal cultivation. And the concentration of land holdings has increased. It is therefore urged that these laws do not abolish landlordism but retain it in a different form. Some have even uncharitably criticized that the landlordism has been introduced by the back-door.* But this view may be deemed to be an extreme view. It is the intention of Government to abolish all types of unnecessary intermediaries and in this process, Government has to take care that it does not deprive the zamindars of their means of livelihood. The retention of the home-farms in their possession has been deliberately provided in order that the domesticity of the zamindars may not be abruptly disturbed in consequence of abolition of their former estates and incomes therefrom. But the absence of any limit on the extent of the holdings of the home-farms is a serious lacuna in these laws. It would have been more appropriate and expedient if some provision had been made for fixing the ceilings of the home-farms.†

In this respect, the retention or allotment of gharkhed lands in Saurashtra by eviction of tenants is definitely detracting from the importance of the Saurashtra reforms. Perhaps, such a provision seems to have been made in order to placate the

* Dr. Karuna Mukerji : Land Reforms, p. 125.

† The tenancy laws place restrictions on the size of the holdings and the landlords' right for resumption of lands for personal cultivation. But this is not enough. Recently, West Bengal has fixed 33 acres as the maximum individual holding in the case of Khas lands.

Girasdars, who created a great turmoil in the body politic of the Saurashtra State.

It is very appropriate that in the wake of abolition, the Acts should make provision for recognition or conferment of the proprietary or occupancy rights on the under-proprietors. But there is no uniformity in the provisions in this respect: every State has adopted its own pattern, having regard to the administrative background of the system of land ownership and utilization in each State. In this respect, U.P., Delhi and Madras had a hierarchy of intermediaries and inferior proprietors. The result is that their Acts have made elaborate provisions for conferring proprietary rights. We have no exact data about the under proprietors or tenants of different categories who have taken advantage of those provisions to become malik makbuzas, proprietors, pucca tenants, occupants or ryotwari pattedars. The real difficulty is in the States where such rights are acquired on payment of the multiple of annual rents or assessment. Except in the U.P. and Saurashtra Acts, provision for advancing loans or credit does not seem to have been made. In these days of high prices and high cost of living, it is quite likely that cultivators may not be in a position to acquire such rights for lack of finance. In the circumstances, Government should adopt measures for providing credit repayable in easy instalments at low rate of interest.

It is urged that although the Acts provide for conferment of occupancy rights on the under tenure holders, there is no provision for the landless labourers, who have been reduced to the position of serfs and whose number is legion. This serious lacuna has been noticed recently particularly after watching the implementation of the Chinese Land Reform laws. Consequently, the Planning Commission has provided for according to them a definite position in the scheme of land reforms.*

One fundamental fact about the zamindari abolition measures is that the zamindari system was first introduced by Cornwallis in Bengal in 1793; and then adopted in Madras, Bihar, Orissa, U.P., Assam, Madhya Pradesh, etc., and that the said system has been abolished by legislative measures in all

States except Bengal, the place of its origin. Last year, the Chief Minister introduced a Bill to acquire the estates in West Bengal. This shows that Bengal, which was first to introduce the system, will be the last to abolish it from India! The Floud Land Revenue Commission (1940) recommended the abolition of the zamindari system in the national interest, as it involved a huge amount of loss of land revenue to Government. The Bengal Government does not deny the necessity of reorganization of the revenue system. Dr. B. C. Roy, the Chief Minister has explained the attitude of that Government with regard to this problem. The sum and substance of his argument is that mere transference of land from the zamindars would not materially affect the tillers' status and interests and that the zamindari abolition would entail financial burdens which the State in its present economic and political conditions is not in a position to bear. He advanced several reasons against immediate abolition of that system. But those reasons were not tenable and in consequence of a demand for acquisition of such estates, the West Bengal Government was compelled to introduce a Bill for the purpose. The said Bill had been referred to the Select Committee of 24 members of the Legislature and the Bill as emerged from the deliberations of the Committee has been recently passed by the State Legislature. Here, it is relevant to add that the Five Year Plan has taken the zamindari abolition for granted and provided for further land reforms on the basis of that assumption. In this context, any delay in implementation of the Act in West Bengal may lead to misunderstanding amongst the tenants, whose dissatisfaction and discontent with the existing order of the land-ownership may be exploited by certain political parties. One may even urge that the State, which is very allergic to the Communistic dogmas and principles, may be driven into the hands of the ever alert and watchful Communists ready to exploit any situation. Bengal, which is already a problem State, should not ignore the writings on the wall.

After receiving the President's assent, the Bill has been published as an Act on February 12, 1954. The implementation of the Act will start now. It would be appropriate to examine

the whole Act at this stage. Although it generally follows the Zamindari Abolition Acts of Bihar and Orissa in regard to its provisions for vesting them in Government, compensation for extinguishment of the estates and the interests therein, the mines and mineral rights, it has distinguishing features of its own. They are that the Zamindars are given an option to have their arrears collected through the Government agency on certain conditions. Further, compensation is payable upto the graded scale in cash and the balance is payable in non-negotiable bonds. Exception has however been made in favour of the religious and charitable trusts or interests which are to be compensated in perpetual annual bonds. Three distinct methods of computing compensation have been provided in respect of the mines and mineral rights. Besides, the Act contains detailed provisions for preparation of Record of Rights in these areas.

Its defects are quite apparent. It contains several provisions in favour of the zamindars, as set forth below:—

- (1) The Act does not vest all the estates in Government at once but provides for vesting the estates by a notification in the official Gazette (Section 4). Even certain *khas* lands and rent-receiving interests are to be acquired by the State in the same manner.
- (2) When generally, most of the State laws provide for payment of compensation in bonds only, this problem State has chosen to pay considerable part in cash.
- (3) The intermediaries are allowed to retain a substantial part of their estates such as lands covered by homesteads, buildings, structures, additional non-agricultural land in *khas* possession not exceeding 15 acres in area, agricultural land in *khas* possession upto 25 acres as may be chosen by them, tank fisheries, lands comprised in tea gardens, orchards, poultry farming, livestock breeding, etc. Even at the time of vesting certain *khas* lands in Government under the provisions of Chapter VI, they are allowed to retain *khas* lands upto 33 acres in the aggregate.

- (4) Government has taken upon itself the responsibility for recovery of the arrears of the Zamindars, if applied for.
- (5) The quantum of ad interim compensation fixed at 1/3rd of the net approximate annual income is very high.

These provisions seem to have been made because of political expediency. Any way the ‘benevolent blunder’* committed by Cornwallis in 1793 will be rectified now.

The Acts are not without novel experiments in the village administration. In U.P., Delhi, and Orissa, the special provisions for formation of Gaon Samaj and Anchal Sasan have been made for the general administration of the villages including collection of land revenue. They aim at decentralization of powers and functions and deprovincialization of land revenue administration. They are frankly experiments in the village administration. Two years are too short a period to pronounce a judgment on the working and results of the new institutions. The entrusting of the administration to the village panchayats in Bihar and Madhya Pradesh is not so novel as some of the village functions have already been transferred to those institutions. These bodies have yet to prove the efficiency expected of them by Government. In short, it would not be hazardous to say that the new experiments in village administration are in the initial stages of experimentation and that their operation and effects should be watched very carefully before they are praised or decried. Much will depend upon the manner and spirit in which those institutions are worked by the personnel charged with the responsibility. If the experiment proves a success, it will blaze a new trail in the village administration and in the event of failure, the high hopes of the legislators will be dashed to the ground.

Like other provisions, there is an essential diversity in the basis and rates of compensation as well as the methods of payment thereof. As regards the bases and the rates of compensation, we find that the basis of ‘net income’ finds favour with the majority of the States like Bihar, Orissa, Madhya Pradesh, Madhya Bharat, Assam and West Bengal. Uttar

*Baden Powell: Land Systems of India, Vol. I, p. 211.

Pradesh has adopted the 'net assets' basis; whereas Madras has the "basic annual sum". Mysore has adopted different bases for the purpose. The Punjab and Pepsu have based compensation on the annual rent and other dues payable to Ala Maliks by adna maliks and Government; whereas Saurashtra has taken the land revenue of the land for purpose of computing compensation.

The diversity does not end with the basis of compensation; but it extends to the rates of compensation and the persons responsible for payment. Generally, the rates are based on the 'net assets', 'net income' or 'basic annual sum', etc. But these multiples vary very widely from State to State. Besides this variation, in some States the rates are based on the flat rate of multiple, whereas in others, sliding scales or slabs are provided. In the former category fall U.P., Madhya Bharat and the Punjab, which provide for 8 multiples of the net assets or net income; whereas Madhya Pradesh and Saurashtra compute compensation at 10 and 21 (6 + 15) times the net income or land revenue, respectively. In the remaining States, the multiples vary from 20 to 3 in Bihar, from 15 to 3 in Orissa and Assam, from 20 to 2 in West Bengal, from 30 to 12½ in Madras and from 25 to 10 in Mysore. The diversity does not end here; the minimum and maximum amounts of the sliding scales or slabs of the net income or assets also vary. The difference will be apparent from the statement below:—

State						Minimum amount	Maximum amount.
						Rs.	Rs.
Bihar	..	..	..	..	..	500	1 lakh
Orissa	..	..	..	..	..	500	40,000 and more
Assam	..	..	..	..	..	1,000	3 lakhs and more
Madras	..	..	..	..	..	1,000	1 lakh
West Bengal	..	..	..	..	..	500	1 lakh and more.

Diversities do not end here. Even the basis of compensation adopted either as net assets or net income is arrived at differently. For example, the break-up of the net assets in U.P. shows the following constituents:—

- (a) *Gross assets*:—aggregate of rents including cesses and local rates payable by inferior holders or tenants' income from mines and minerals i.e. all the income that actually accrues to the proprietor of a village or mahal.
- (b) *Deductions*:—(1) land revenue, rent, cess or local rate,
 (2) cost of management and irrecoverable arrears of rent calculated at 15% of the gross assets,
 (3) an amount calculated at exproprietary rates in respect of khudkasht lands left with the intermediary,
 (4) Income-tax paid on the income of royalties from mines and minerals,
 (5) 95% of the gross income from mines directly worked by an intermediary, and
 (6) any agricultural income-tax.

Net asset = (a) minus (b)

Normally, in the case of other laws, the above calculations are made but in calculating the gross assets or income, different provisions are found. In U.P., 15% of the arrears of rent is allowed; whereas in other States like Madhya Pradesh and Madhya Bharat, practically all arrears of rent due to the proprietors are allowed. Apart from the rents, wide variations are found in the calculation of cost of management and cost of works of benefit to the raiyats. They are tabulated below:—

State	Cost of management	Cost of works of benefit to raiyats
Bihar	5% to 20% of gross assets	4% to 12½%
Orissa	5% to 20% " "	No provision
Madhya Pradesh	8% to 15% " "	do
Madhya Bharat	10% of gross income	do
Assam	5% to 15% of gross assets	2% to 10%
Madras	5% of gross ryotwari demand	No provision
West Bengal	5% to 15% of gross income	No provision

Not only the above percentages differ but the amounts on which they are to be calculated on the sliding scales also fluctuate. Several provisions are in favour of the Zamindars with the result that Government is blamed for agreeing to a bloated basis of compensation!

After calculating the aggregate amount of compensation payable to the zamindars, the next question is of payment thereof. We have noticed that in this matter also, there is no uniformity. As regards the interim payment, West Bengal is most liberal (1/3rd), then come Madhya Pradesh, Madhya Bharat (1/10th), Mysore, etc. Some of the States base payment on certain percentages of the income. Lastly, in the ultimate payment, the provisions differ. The West Bengal Act provides a triple method of paying compensation which is unique in all the laws of India. But in view of the Government of India's directive, compensation in all the States is now generally made payable in transferable bonds bearing 3% interest and redeemable during a period of 20 years in equated instalments of principal and interest.

The rehabilitation grants may be considered as continuation of the amounts of compensation payable to the Zamindars for meeting their immediate needs. Here also, we have noticed the essential diversities in payment.

Considering the entire scope of assessment and payment of compensation and rehabilitation grants, one is bewildered by the medley of different bases and rates of compensation and the methods of payment thereof. This clearly shows lack of uniform policy and co-ordination both at the Centre and the States. It is strange that the Centre has not considered it expedient even to lay down uniform principles in this respect, of course, having regard to the administrative background of each State and the local variations required on that score. These laws are therefore attacked, as they "present a heterogeneous picture of a half-hearted re-adjustment of agrarian relations. They are a lot of hasty, haphazard and makeshift, even opportunist laws designed to tackle certain aspects of a fast deteriorating agrarian situation in the context of the mounting peasant discontent. They are definitely not a plan of rehabilitation of

rural life, far less, any comprehensive scheme of changing the agrarian set-up in its fundamentals".*

Apart from the lack of uniformity in the provisions of the laws, they are criticized from another important angle. It is contended that the Zamindari abolition is no tenure reform. It is purely of a negative character. It creates a vacuum in the village administration. It is also alleged that they merely substitute Government for the Zamindars. The King Log is dethroned and the King Stork is placed on the pedestal. But no provision has been made for the King Stork to get into saddle and stride. There is no denying the fact that there is some truth in this criticism. It is true that we have uprooted the age-old institutions and hereditary proprietors in pursuance of our agrarian reforms policy, but it is yet to be proved whether Governments have adopted quick and adequate measures to fill in the gap fairly efficiently. Herein lies the urgent need of formation of an all-India board which would formulate and co-ordinate all the land reforms policies and supervise their enforcement.

This fact leads us to one important facet of the problem, i.e. implementation. It is already stated before in the chapter on Implementation of the Bombay laws that the proof of the pudding lies in the eating and not in its preparation. The States have passed the Zamindari laws and enforced them with a fanfare of trumpets as was done in U.P., but it is a question whether adequate steps are taken for the efficient implementation of those laws with fixed targets of time-limits. There is no evidence to show that any State has fixed any dead line for enforcement of the Acts. It is noticed that after passing a Land Reform Bill in the State Legislature, a smug self-sufficiency as well as a sense of pride for the achievement supervenes and this lulls the promoters into a false sense of satisfaction. It is not enough that a land reform legislation is passed by the Legislature and added to the statute book; but it is the paramount duty of the State, its officials and the members of the Legislatures to watch and supervise the pro-

* Dr. Karuna Mukerji : Land Reforms, p. 125.

cesses of implementation so that the duration of the inevitable time-lag between the enactment and the enforcement thereof may be cut down to a minimum. This aspect of the reforms requires serious and urgent attention of the State Governments and the legislators concerned.

A cognate matter regarding implementation may be mentioned here. With an eye to the zamindari abolition, the Planning Commission has noticed* that there has been a wholesale removal of the forests and trees by the Zamindars in order to realize their forest assets before the laws are actually implemented or are in the process of implementation. It is an irony of fate that on one side, the afforestation has been going on for the last 6 years by the programme of the Vanmahotsava (Festival of Forests) and, on the other, we have the sad spectacle of the best forest wealth being cut down by the Zamindars under our very nose and in the face of our forest laws. Complaints about rapid and ruthless destruction of the forests are received, but the action taken does not seem to be so quick and appropriate as to stop the rot. It is true that there is the Indian Forest Act, 1927 enacted by the Central Government. As the zamindari laws passed by the States have not provided for any specific preventive action in this respect, it is high time that Government of India undertakes special legislation for preventing further mischief to and loss of the forest wealth.

As regards social consequences of the legislation, the probable effects are quite clear. There is increasing identification of ownership with management and operation in order that, ultimately, only the tillers of the soil may remain on the land. This process will be accelerated by the provision for the progressive merging of the remaining interests and upgrading them in the agricultural ladder. The laws would tend to disintegrate the big blocks of concentrated holdings in a few persons and distribute lands amongst the many under-proprietors and inferior holders. This will reduce inequalities in land ownership and wealth. There will be levelling down of the landed class and levelling up of the under-privileged and the under-

* The Five Year Plan, p. 285.

dog. Whether this process has resulted in the weal and welfare of the people as a whole will be examined in the last chapter.

The latest developments.

It is noticed that legislative attempts have been made for the land reforms in Delhi, Himachal Pradesh and Ajmer-Merwada on the recommendations of the Land Reform Committees appointed by those States. In order to complete the picture of the land reform legislation, they are succinctly stated below.

(A) THE DELHI STATE

The Delhi State is probably the last to enact the Land Reforms Bill, 1953. Before dealing with the Bill, it is proposed to review its past revenue history.

The Delhi State has been carved out of the two States of Uttar Pradesh and the Punjab, with the result that Delhi has, since its inception as a separate State, been governed by the agrarian laws of those two States (U.P. and the Punjab). Out of the 350 villages of the States, 65 lying east of the Jamuna are governed by the Agra Tenancy Act, 1901; while the remaining villages west of the Jamuna are governed by the Punjab Tenancy Act, 1887 as modified in 1939. The land revenue is governed by the U.P. Land Revenue Act, 1901 and the Punjab Land Revenue Act, 1887. Though there have been several changes in the agrarian laws of those two States, the position in the Delhi State has remained unchanged.

With a view to unifying the land laws of the State, the State Government appointed a Land Reforms Committee and as a result of its labours, a comprehensive legislation called the Delhi Land Reforms Bill, 1953 has been recently passed by the State Legislature. The Bill awaits the Presidential assent. It provides for the modification and not abolition of the Zamindari system so as to create a uniform body of peasant proprietors and unification of the Punjab and Agra systems of tenancy. It also provides for the creation of co-operative farms and Gaon Panchayats for administration of village lands and revenues.

The Delhi Land Reforms Bill, 1953 repeals the following enactments :—

- (1) the Punjab Tenancy Act, 1887 as modified by Act No. IX of 1939,
- (2) the Agra Tenancy Act, 1901,
- (3) the Punjab Tenants (Security of Tenure) Act, 1950,
- (4) the Punjab Land Revenue Act, 1887,
- (5) the U.P. Land Revenue Act, 1901 in so far as its provisions are inconsistent with this legislation, etc.

Admission to or acquisition of Bhumidhari rights.

At present, there are several intermediate interests between Government and the actual tiller of the soil. Under the legislation, only two categories of land tenure are recognised, viz., Bhumidhars and Asamis.

The Bhumidhari rights are either admitted or acquired on payment of compensation in multiples of land revenue payable to a proprietor or a land holder. The following persons are recognised as Bhumidhars :—

- (a) (i) a proprietor holding sir or khudkasht under self-cultivation,
- (ii) a proprietor grove-holder,
- (iii) an occupancy tenant under section 5 of the Punjab Tenancy Act, 1887 paying rent at revenue rates, or
- (iv) a person holding land under a patta Dawami (perpetual lease) with rights of transfer by sale;
- (b) every class of tenants other than those mentioned in (a) above; and sub-tenants;
- (c) every person, who is admitted as Bhumidhar or acquires Bhumidhari rights under the provisions of the Act.

The following categories of persons are recognized as Asamis :—

- (1) a non-occupancy tenant of a proprietor's grove,
- (2) a sub-tenant of tenants,
- (3) a non-occupancy tenant of pasture land or of land covered for growing singhara, etc.,

- (4) a lessee under section 36,
- (5) a person admitted as a lessee of land by the Gaon Sabha,
- (6) every person who acquires rights of an Asami under the provisions of the Act, and
- (7) every person who is a tenant of sir or a sub-tenant of an occupancy tenant under section 5 of the Punjab Tenancy Act, 1887 or of a Pattadar Dawami or Istamrari (perpetual lease) with right of transfer by sale, etc.

But sub-tenants of occupancy tenants other than an occupancy tenant, exproprietary tenant, non-occupancy tenant of over 12 years or less or a tenant holding land under a Patta Dawami or Istamrari without rights of transfer by sale are to be deemed to be non-occupancy tenants for the purposes of section 13 and in such lands, Bhumidhari rights are not available to the occupancy tenant, exproprietary tenant, non-occupancy tenant or Pattadar.

In the case of tenants with rights of transfer, compensation payable to a proprietor will be 4 times the amount of land revenue. Section 13 specifies 8 categories of tenants who are declared as Bhumidhars. Every such person other than a sub-tenant deemed to be a non-occupancy tenant under section 10 or 12 has to pay to a proprietor compensation of a *sum equal to 20 times the amount of land revenue*. The compensation payable by a sub-tenant declared as Bhumidhar is also 20 times the land revenue. But out of this amount, a sum equal to 4 times the land revenue is to be paid to a proprietor and the remainder (16 times) to his landholder. The non-occupancy tenant referred to in section 12(1) has to pay compensation equal to 30 times the amount of land revenue; out of which, a sum equal to 20 times the land revenue goes to the proprietor and the remainder to his landholder.

The tenants or sub-tenants declared as Bhumidhars under section 13 may pay compensation either in lump or ten annual equal instalments together with the prescribed rate of interest.

Broadly speaking, the analysis of the compensation provisions reveals the position as under :—

Section (1)	Bhumidhars (2)	Quantum of com- pensation payable (3)	Compensation paya- ble to (4)
11 (3)	Occupancy tenants	4 times land revenue	Proprietor
14 (2) (b)	Tenants declared as Bhumidhars under section 13(1)	20 times	Proprietor
14 (3) (b)	Sub-tenants	20 times	4 times to proprietor and 16 times to landholder.
14 (3) (c)	Non-occupancy ten- ants under sec. 12(1)	30 times	20 times to proprie- tor and 10 times to landholder.

The rights of the Bhumidhars are heritable and transferable; whereas those of the Asamis are only heritable. Bhumidhars have to pay land revenue, whereas Asamis have to pay rent to the Bhumidhars. The Bhumidhars and Asamis will have exclusive use of the lands in their possession except for industrial use, where Government permission will be necessary.

Both of them cannot let out lands except under certain circumstances specified in section 36, i.e. disabled persons like minors, lunatics, etc. Exchange of land by the Bhumidhar with the land of another Bhumidhar is permitted. A Bhumidhar is generally not liable to ejection; but an Asami is liable to be ejected for non-payment of rent, etc.

As stated before, an Asami has to pay rent to the Bhumidhar. Generally, *rent* is not to exceed *one-fifth of the produce* or its value in cash. Further, rent is not to be varied. Provision is made for commutation of produce rent into cash. Rent is payable in 2 instalments. For the arrears of rent, interest at $6\frac{1}{4}\%$ is payable by an Asami.

The legislation provides for the formation of the Gaon Panchayats and Gaon Sabha for the village administration. Provision has also been made for formation of co-operative farms in the State.

Liability to pay land revenue to Government.

There is no uniformity as regards the liability to pay land revenue to Government on admission to or on acquisition of the Bhumidhari rights. The land revenue is payable at different rates by the Bhumidhars as under:—

- (1) The original proprietors pay land revenue as before in respect of the sir or khudkasht lands.
- (2) Bhumidhars, who are deemed non-occupancy tenants under section 10 or 12 have to pay land revenue equal to
 - (a) One-half of the amount of rent payable for the fasli year, subject to the condition that the new land revenue is not to be more than double or less than the former land revenue.
 - (b) All sub-tenants, who have been declared as Bhumidhars, have to pay land revenue as in (2) above.
 - (c) Asamis admitted as Bhumidhars by the Gaon Sabha have to pay 50% of the rent calculated at the village rate.

Bhumidhars have to pay to Government all the cesses, local rates and sayar proportionately to their land revenue in respect of holding. All lands, held by the Bhumidhars are liable to payment of land revenue unless exempted under section 122.

Bhumidhars are jointly and severally responsible to Government for payment of land revenue.

Financial implications.

The modification of the Zamindari system will result in the increase of land revenue by 25% i.e. Rs. 98,500 ($3,94,000 \div \frac{1}{4}$) annually. The compensation is payable to proprietors and landholders by the tenants, who are to be made Bhumidhars under the legislation. Consequently, Government will not have to incur any additional cost on account of compensation. But Government will have to pay small compensation to proprietors at 4 times the land revenue for vesting waste and other lands of common utility in the Gaon Sabhas.

Criticism.

The Bill is a very complex piece of legislation in that the provisions regarding the admission to or acquisition of the Bhumidhari rights, the liability to pay land revenue to Government and the quantum of compensation payable to proprietors and landholders are very much mixed up. It aims at modification and not abolition of the Zamindari rights in the State. About 70% of the cultivated area is under the personal cultivation of the peasant proprietors and the remaining lands are under cultivation of the "stable tenants". The legislation therefore affects only the tenants who are in possession of 30% of the cultivable area. It leaves untouched 70% of the proprietors. The only change in their position will be that instead of proprietors, they will be called Bhumidhars, but will continue to pay the amount of land revenue as before. But in the case of the tenants, provision is made for admission to or acquisition of the Bhumidhari rights on payment of compensation varying from 4 multiples to 30 multiples of land revenue. The majority of them will have to pay compensation varying from 20 to 30 multiples of assessment. The multiples of compensation so fixed are very high in comparison to the quantum of compensation fixed in the land reform laws of other States.

Besides the high quantum of compensation, these new Bhumidhars will have to pay land revenue at a rate different from those of the original proprietors i.e. one half of the amount of rent subject to the condition that the new land revenue is not to be more than double or less than the former land revenue. Further, the Asamis (tenants), who are admitted as Bhumidhars by the Gaon Sabha, will have to pay land revenue at half the amount of the rent payable by them. Although the tenants will become Bhumidhars, they will not lose their connection with the farm tenancies.

(B) HIMACHAL PRADESH

The State Government had appointed a Committee for the revision of the Land Revenue and Tenancy laws of the State under the chairmanship of the Chief Minister (Dr. Y. S. Parmar). The Committee made certain recommendations on the

basis of which the State Government sponsored two Bills for reform of the revenue and tenancy laws. The Himachal Pradesh Land Revenue Bill contains, inter alia, the following amendments to the existing land revenue system and administration :—

- (1) The Zaildari agency is to be abolished.
- (2) The Village Panchayats proposed to be constituted under the Himachal Pradesh Panchayat Raj Act are to be associated with revenue officers in determining disputes about the possession of land.
- (3) The existing provisions for recovery of arrears of land revenue by arrest and detention of the defaulter are to be repealed.
- (4) It is proposed to resume “remission and assignment of land revenue” sanctioned prior to the enforcement of the new legislation.

The Committee has recommended that all Muafis and Jagirs, religious or non-religious, should be resumed by Government except in cases where the Muafi was granted in lieu of military services. While resuming religious muafis, the deserving Muafidars or institutions are to be considered by Government for grant of cash allowances. When all other Land Reforms Committees of India have recommended abolition of all inams and jagirs except the religious or charitable grants, and most of the States have abolished them, this Committee's recommendation to continue the military Muafis furnishes an example of refreshing realism in administration.

The Zamindaris are proposed to be abolished by the Himachal Pradesh Abolition of Big Landed Estates and Land Reforms Bill, 1953. It provides for extinguishment of all rights, titles and interests of land owners and tenants,

- (i) who have lands in the Chamba district exceeding 30 acres in area or
- (ii) in the rest of the State of which the assessed land revenue exceeds Rs. 125 per year.

Their rights in lands cultivable or barren, orchards, ghasnis, charans, trees (other than trees in forests or village *abadi*), wells (other than private wells in the *abadi*), tanks, ponds, ferries, pathways, *abadi* sites, *hats*, bazaars and in all sub-soil (in mines and minerals) whether being worked or not, are extinguished. All rents, cesses and local rates in respect of any such lands are now payable to Government.

It provides that no landlord or tenant shall possess land, the land revenue of which exceeds Rs. 125/- per annum. The lands in excess of that limit are to be taken over by the State on payment of suitable compensation and to be distributed amongst the landless and persons with dwarfed holdings. According to the press reports, it amounts to 10 acres. Like those in the Punjab, most of the cultivators in this State are peasant proprietors, and the landlords may be 5% of the total number of the cultivators. In the absence of any industry or trade, the people live upon land and land alone. The fixation of the ceiling at 10 acres has created much dissatisfaction amongst them because the said area is not sufficient to eke out their maintenance.*

Compensation will be paid by Government for the land of which the assessed land revenue exceeds Rs. 125 per year except in the case of the Chamba district where the compensation will be paid by Government for the lands taken in excess of 30 acres at the rates described before.‡ Pending the preparation of the Compensation Assessment Rolls, the persons affected are entitled to the interim compensation to such extent and in such manner as may be prescribed by Government. Of course, the amount of interim compensation is to be adjusted at the time of making final payment.

(C) AJMER-MERWARA

The Ajmer State Government appointed the Intermediaries Abolition Committee in June 1952 to inquire into the problem of abolition of intermediaries between the State and the tiller of the soil. According to the Committee's report published in August, 1953, the following land tenures are found to exist in the State:—

* The Times of India, dated 11th February 1954.

‡ See compensation scale at page 440.

A—Istamrari,

B—Non-Sanadi Istamrari,

C—Guzaradari,

D—Bhumias.

E—Muafis.

F—Khalsa & the Allied Tenures.

G—Jageers.

H—Thekadars, Mortgagees, Plot-Proprietors, etc.

I—Cultivating (Tenantry) & other subordinate Tenures.

The Istamrardars were life grantees originally but became hereditary, subsequently. The Non-Sanadi Istamrardars arose out of the main estates of the Istamrardars. The Guzaradars are the holders of grants-in-appanage. Bhumias were already on the soil before the advent of the ruling dynasty. The Muafis consist of grants to religious or charitable institutions or rewards for military service, etc. In Khalsa villages, the persons who improved lands by sinking wells or constructing embankments for the storage of water were recognized as Biswedars. The Biswedari right became hereditary. The Jagirs were carved or created out of the Khalsa areas. They were for religious or charitable purposes.

In the ultimate analysis, the Committee divides the tenures into two broad divisions, namely, proprietary and tenantry.

(A) *Landlord or Proprietary Tenures.*—Inquiries have shown that the persons possessing landlords' or proprietary rights in one form or another, or claiming such rights, are :—

(i) Istamrardars (Sanadi),	}	in Istamrari Estates.
(ii) Non-Sanadi Istamrardars,		
(iii) Guzaredars,	}	in Jagir villages.
(iv) Jagirdars,		
(v) Biswedars	}	in Khalsa villages. These may be found, generally in Khalsa and Jageer villages and possibly in the Istamrari Estates also.
(vi) Khewatdars,		
(vii) Bhumias,		
(viii) Sanadi Muafidars,		
(ix) Plot-Proprietors and others, including Thekedars and mortgagees.		

(B) *Tenantry Tenures.*

As regards the Jagirs assigned to religious institutions the Committee has recommended that institutions which are socially useful and religiously indispensable, should be assured of some income in the form of annuities in consideration of their present allocation of expenditure for public and charitable purposes. For this purpose, it is suggested that their present income should be taken into consideration vis-a-vis their essential expenses and the quantum of the annuity should not exceed the amount of interest at the rate of $2\frac{1}{2}\%$ calculated on the total amount of money. There are certain grants to temples, mosques, deity and/or dharmshalas. The Committee is in favour of the abolition of these grants and of handing the institutions over to village community for maintenance. The Government may, however, consider the feasibility of sanctioning an annuity to the village community out of the cash rental income.

Notwithstanding the fact that the origin of most of the intermediaries is obscure, that none of them could prove by documentary evidence that they ever had proprietary rights in the estates held by them, that their past treatment of the tenants has been most inhuman and that they have violated the terms of the sanads, the Committee feels that some compensation may be granted to them because the intermediaries have been legally or illegally enjoying certain rights for a very long time. So, the Committee is in favour of granting them compensation, according to the prescribed scale: (*See table on the next page*). The compensation may be payable in negotiable bonds bearing interest at $2\frac{1}{2}\%$ redeemable during a period of 20 years.

The Committee is definitely of the opinion that no share of compensation should be borne by the tillers of the soil in whom the land will vest after the abolition. But Government should find other sources to raise the necessary funds for the payment of compensation.

It has also recommended that it would be reasonable if 300 *bighas* (120 *acres*) of land are allowed to remain with the intermediary on the liquidation of his interest. This is the

Categories of the Intermediaries according to NET ASSETS (after deducting the land revenue or rent, as the case may be), as may have been fixed by the Rent-rate Officer, during Jagir and Istamrari estates, and by the Settlement Officer during the last operations in khalsa.	Multiples of net assets	Deductions (percentage) on account of cost of management and bad debts which intermediaries fail to realise.
1. Up to Rs. 25	15 times	2½% of gross assets
2. Exceeding Rs. 25 but not exceeding Rs. 50 subject to a minimum of the sum equal to the highest amount payable in No. 1.	12½ „ „	3½% „ „ „
3. Not exceeding Rs.100	10 times	5% of gross assets
4. „ „ Rs. 500	8 „	7½% „ „ „
5. „ „ Rs. 1,000	7½% „	8½% „ „ „
6. „ „ Rs. 2,000	7 „	10% „ „ „
7. „ „ Rs. 3,500	6 „	11½% „ „ „
8. „ „ Rs. 5,000	5 „	12½% „ „ „
9. „ „ Rs. 10,000	4 „	13½% „ „ „
10. Exceeding Rs. 10,000	3 „	15% „ „ „

maximum area of land which should be made up of his Khud-Kasht and/or Niji Jot. Any area in excess of the limit should be taken over from him and distributed to the landless at the discretion of Government or left at the disposal of the village community.

In making the above recommendations, the Committee observes, "We cannot think that we should bend but not break or mend but not end the present system". Out of 10 members of the Committee, 4 members have signed the report subject to the dissenting minutes. The major point of their disagreement is regarding the grant of compensation to certain intermediaries whom the members do not consider as proprietors.

The implementation of the recommendations of the Committee will be watched with great interest.

CHAPTER XX

WHITHER LAND REFORMS

1. *General review.*

We have passed in review the Indian land reform legislation relating to tenancy, prevention of fragmentation and consolidation of holdings, abolition of intermediaries in the shape of zamindars, jagirdars, inamdars, etc. The main feature of the reforms is that the abolition of intermediaries has been accepted as a policy by all the State Governments since Independence. All Part 'A' and 'B' States except Travancore-Cochin have enacted legislation for the purpose. Bhopal, Delhi, Himachal Pradesh and Vindhya Pradesh (Part 'C' States) framed necessary Bills for the purpose, which are passed by the State Legislatures. And the process of abolition remains to be expedited now. The States of Bombay, West Bengal, Madhya Pradesh, Orissa, Punjab, U.P., Hyderabad, Rajasthan, Mysore, Ajmer-Merwara, Delhi, Pepsu and Himachal Pradesh have decided upon the extent of land which a landlord can resume for personal cultivation; but such a limitation on the area is not imposed in Madras, Madhya Bharat and Bihar. The States of Hyderabad, Madhya Bharat, U.P., Ajmer-Merwara and Delhi have undertaken legislation for imposition of ceilings on future acquisition of land. The maximum rents ranging from 1/6th in Bombay and Rajasthan to 3/5th in Tanjore (Madras) have been fixed by law. The security of tenure is also provided to tenants. There is a statutory recognition of the tenants' right to purchase the tenanted land in Bombay, U.P., Madhya Bharat, Pepsu, Hyderabad, Delhi and Himachal Pradesh. As regards consolidation of holdings, provision for compulsory consolidation exists in Bombay, U.P., Punjab, Pepsu and Delhi. In other States, the consolidation is voluntary. We have also reviewed the Bhoodan movement initiated by Shri Vinoba Bhave. Now the question arises whether the twin objectives of the land reform laws, viz., (a) the social justice and (b) increase in agricultural production are achieved or are in the process of achievement. One would

also like to consider the results obtained so far in implementation of all these laws. Till late, it appears that an all-India assessment of the working of the land reforms has not been attempted by any official or non-official agency with the result that the over-all effects on the agricultural and other sectors of the society are not known. What information in this respect is available has already been given in each chapter. Now that the whole picture of the land reform legislation is before us, we are in a position to make a provisional assessment of the operation, progress and effects of these laws throughout India on the basis of the statistical and other material available to us.

2. *Diversity in Land Reforms.*

From the review of the land reform legislation, it is clear that diversity of all sorts is the striking characteristic of all those reforms. One may as well say that there is uniformity in the diversity of statutory provisions. To begin with, the provisions for vesting of the estates differ. Some Acts like those in Bombay vest the estates immediately in Government, whereas those of U.P., Bihar, etc., vest them by stages according to the exigencies of administration. Bihar and Bhopal blaze a new trail in that their Acts provide for voluntary surrender of the estates instead of immediate acquisition thereof.

The kinds and extent of the rights extinguished or abridged also differ. All the Zamindari and Jagiri abolition laws acquire the entire estates, villages and lands with all rights to forests, mines and minerals, whereas the Bombay Acts aim at liquidation of the special privileges regarding land and land revenue. Generally, they have not abridged the existing rights to mines, minerals and forests.

The provisions about recognition or conferment of the proprietary rights after abolition of the Zamindaris vary. The laws recognise certain categories of cultivators as occupants, pattedars, malik makbuzas, ala malikiyats, etc. These rights are conferred on payment of different multiples of rent or revenue either to the Zamindar, Jagirdar, the tenurial holder, or Government.

Even the allotment of gharkhed or khudkasht lands is different in different States. Bihar, U.P. and Orissa are generally liberal in this respect. Some Acts recognise the Zamindar's rights both in sir and khudkasht lands. Some Acts like Saurashtra provide for allotment of gharkhed lands even by eviction of tenants.

The bases of compensation also vary. Most of the States adopt as a basis the "net income" of an estate, whereas some have adopted the land revenue. Madras is alone in adopting the basic annual sum. Further, the maximum and minimum rates of assessment differ. In computing compensation, the rates of deductions on account of cost of management, public works and benefits to ryots also vary. Furthermore, there are differences in the methods adopted for assessment and award of compensation. Some make interim payments of compensation, whereas some do not. Some Acts provide for payment in cash and/or bonds. Now, in view of the Government of India's directive, the payment of compensation is to be made in transferable bonds only. Still, in some States like Saurashtra, West Bengal, Bihar and Bhopal, cash annuities are payable for surrender of the barkhali lands, zamindaris and jagirs. Unless those Acts are amended, the compensation will have to be paid in cash.

Some States like U.P., Saurashtra, etc., provide for rehabilitation grants; whereas most of the States make no such provision in their laws.

Lastly, the Acts of Saurashtra, U.P., and Madras make provision for settlement of debts of the Zamindars and Jagirdars. Most of the States have not thought it expedient to provide for debt settlement.

The above points are set out in order to bring into bold relief the diversities in the provisions of our land reform legislation. If there is any uniformity, it is found in the fact that after the Bills are passed by the State Legislatures, all of them go to the President of India or the Rajpramukh for his assent!

Apart from the diversities, there is one general complaint about these laws heard in both the public and the press. Land Reform Bills are passed in the State Legislatures with great speed.

Bills published in the official Gazette a few days back are introduced in the Legislature. The result is that even the members of the Legislature do not get enough time to study them. Consequently, they are unable to contribute to the discussion of the Bills. There is a general feeling, whether right or wrong, that the bills are drafted in great haste at the behest of the Ministers with the result that the laws passed are defective in draftsmanship and lack the comprehensive and balanced character of mature legislation. Many of them, therefore, require to be amended frequently. This process of interminable amendment of the laws has provoked one political wag to remark that like persons marrying in haste and repenting at leisure, our Legislatures legislate in haste and amend at leisure! This fact points to the need of proper collection of sufficient statistical and other data and comprehensive consideration of a measure before it is put through a State legislature.

In this respect, a complaint is also heard that many laws are passed with such a great speed that the legislators and the administrators find it difficult to follow the trend of those laws. Some laws like the tenancy legislation are passed quite ahead of the public opinion. The Planning Commission has already entered a caveat to the effect that "any measures which are taken to protect the tenants... should be simple to administer, and as far as possible, the problems which they raise, should be solved at the village level by the people themselves".* One is lost in the labyrinth of laws and wonders whether the laws are for men or men for laws! After enactment of laws about tenancy, consolidation of holdings, abolition of jagirs, zamindaris and special land tenures, a stage is now reached when Government should consider the consolidation of all the land laws of the State. A welcome beginning has been made by Madhya Pradesh and Delhi in this matter. It is high time for other States to follow suit. All such laws should be linked up with agricultural production and human happiness. Unless these objectives are achieved, the laws should be deemed to have failed in their purpose and should be amended or repealed, as the case may be.

* The Five Year Plan, p. 192.

3. *Financial implications.*

Apart from the abolition of the intermediaries, the land reform legislation has been an aid to taxation and has been designed particularly to help the reform of land taxation. We have already examined the financial implications of different laws in the previous chapters. The broad facts that emerge from the survey are that the Zamindars, Jagirdars, Inamdars, Talukdars, and other tenurial holders were paying to Government much less in comparison to the revenues received by them from the estates; that there existed hardly a modicum of village administration, as the entire administration was for the benefit of the tenurial holders, and that the village records were slipshod and unsystematic. After abolition of those estates, the State Governments have to incur expenditure on the alternative administrative arrangements in the form of the additional staff, introduction of survey, settlement and Record of Rights. Against this expenditure, the State Governments are entitled to appropriate generally the entire revenues of the villages. However, they are responsible for payment of compensation to the Zamindars, Jagirdars, etc., either in cash and/or bonds. The bonds may be transferable or non-transferable and redeemable during a period ranging from 20 years in Bombay to 40 years in U.P. Even after payment of compensation, the land revenue receipts of each State are likely to increase. In short, the recurring and non-recurring expenditure is on account of the administrative arrangements and compensation and the recurring receipts are due to the increase in land revenue. The latter will cancel out the former in a few years.

In order to have a complete picture of the financial implications of all the land reform legislation, the data about the aggregate amounts of compensation and the additional land revenue likely to accrue to each State are tabulated for ready reference (*See table on the next page*):—

The statistics show that on the available data, the aggregate amount of compensation works out to Rs. 431 crores as against the anticipated additional revenue of the order of Rs. 37 crores. And this amount is payable generally in transferable bonds redeemable during a period ranging from 20 to

Name of the State (1)	Name of special tenure abolished (2)	Estimated amt. of compn. payable to tenurial holders (3)	Additional revenue likely to accrue to Govt. (4)
		Rs. (in crores)	Rs. (in crores)
1. Bombay	Special inam and land tenures including jagirs	4.43	1.11
2. Uttar Pradesh ..	Zamindari	160	12
3. Bihar	Zamindari	158	6.5
4. Orissa	Zamindari	9	.44
5. Madhya Pradesh (excluding merged areas)	Malguzari	4.80	.94
6. { Madhya	Zamindari	10.65	8.91
{ Bharat	Jagirs	3.87	.15
7. Rajasthan	Jagirs	N.A.	1.0
8. Assam	Zamindari	5	.20
9. Hyderabad ..	Jagirs	18	3.50
10. Madras	Zamindari	17.15	1
11. Saurashtra ..	{ Girasdari	7.98	.39
	{ Barkhali	2.17	.27
12. Punjab	Mahalwari	N.A.	N.A.
13. Pepsu	Biswedari	N.A.	,,
14. West Bengal ..	Zamindari	24	,,
15. Vindhya Pradesh ..	Jagirs	1.99	.26
16. Bhopal	Jagirs	.40	.09
17. Mysore	Inams	1.50	N.A.
18. Ajmer-Merwara ..	Jagirs	N.A.	.20
19. Jammu and Kashmir	Jagirs	Nil	.07
Total ..		430.94 =431	36.58 =37

40 years, as stated above. Except in U.P., where the Zamindari Abolition Fund has been raised, the compensation is proposed to be paid from the general revenues of the States in equated annual instalments. As a result, the payment of compensation is not likely to be hampered by the financial commitments. And there will be annual recurring revenue amounting to Rs. 37 crores, which will be a permanent gain to the State Governments.

4. *Tenancy legislation.*

The tenancy legislation on the whole has done a lot of good to the cultivators by giving them security of tenure and rents and rights of transfer generally. Practically, all laws have been enacted in favour of tenants. But one wonders why tenants-at-will and share-croppers are still retained in some of the States of North India, Bengal and Assam. Even after the enforcement of these laws, the tenancy relations from occupaney to share-cropping continue to be statutorily recognised. Consequently, the next stage in tenancy reform should be that all the multiplicity of tenancy relations should be abolished and that every person who shares in the risks of agricultural production should be recognised as a tenant entitled to all the rights and subject to all the responsibilities under the existing tenancy legislation. It would be expedient to give tenants the rights of a protected tenant, which are heritable and transferable. And even for such tenants, provision should be made for acquisition of the right of occupaney, pattedar, malik makbuza or ala malikiyat on payment either to Government or the landlord, a suitable sum in terms of land revenue or rent. This postulates a well planned scheme of tenant purchase propped up by institutional credit established by Government. The example of Saurashtra and other States deserves to be emulated in this respect.

In order to achieve this objective, a few suggestions are offered here. Provision for acquisition of ownership rights by tenants are found in the laws relating to the tenancy, zamindari and jagiri abolition, and abolition of special land and inam tenures. The acquisition of such ownership rights is either compulsory or optional. Besides, the quantum of the sum payable to Government or the landlord is also different. In U.P., Rajasthan and Madhya Bharat, it is broadly speaking 10

times the amount of rent and in Bombay and Saurashtra, it is six times the assessment of the lands. Provision for laying down a uniform quantum of price (which is not a market value of lands) is not impossible, even having regard to the local variations arising out of the past history of the tracts.

As things stand at present, the entire leasing of lands cannot be prohibited, particularly because Government has not decided the abolition of absentee landlordism from all States of India. It may be remembered that the Planning Commission does not prohibit leasing entirely. But except in the case of the minors, widows, disabled persons and persons in the Navy, Army and Air Services, leasing should be prohibited if not immediately at least after some specified period.*

Further, the future tenancy legislation should impose a condition of good husbandry on the tenants, i.e. cultivators can enjoy the right in land only so long as they satisfy the test of good husbandry. Land is a social asset and the cultivators are more or less trustees of the social asset. Manu enjoins upon the King to inflict penalties upon a cultivator, who fails to maintain the standard of efficiency of cultivation. In equity, if he fails to discharge the obligations of the trust, he should be divested of the land.† In this regard, section 9 of the Agriculture Act of Great Britain of 1947 is relevant and is reproduced below for facility of reference.

* Mr. Wolf I. Ladejinsky's suggestions are very pertinent in this respect. Before making these suggestions, he visited the States of Bombay, Punjab, Madras and Jammu & Kashmir. They are reproduced below :

(i) The area resumable by landlords should be demarcated, and on the remaining area tenants should be given the right of occupancy, i.e., the right of permanent and heritable possession. At the same time, in order to exempt small holders from the effects of these provisions and as a measure of rehabilitation of others, this provision might permit self-cultivation of a subsistence holding by landlords of all categories, be they absentees or residents.

(ii) The landlord must be made to resume the land, to which he is entitled under the Act, by a certain date specified in the legislation. Failure to do so should entitle the tenant to a ten-year lease of the area.

(iii) Every occupancy tenant should have the right to purchase land, the price of land to be determined as a multiple of the reduced rent or revenue, as recommended by the Planning Commission. Where a tenant exercises the right of purchase, he should immediately come into direct relationship with the State through the payment of land revenue.

(iv) Rent reduction is meaningless without a degree of permanency of tenure. To deny the tenant the latter is to deny him the benefit of reduced rents.

—Cited by Malaviya in his book "Land Reforms in India" (1954).

† Report of the Congress Agrarian Reforms Committee (1950), p. 41.

“Owners of agricultural land should fulfil their responsibilities to manage the land in accordance with the rules of good estate management and that occupiers of agricultural land should fulfil their responsibilities to farm the land in accordance with the rules of good husbandry.”

Section 16 of that Act provides for the dispossession of owners or occupiers on ground of bad estate management or bad husbandry. Now that the tenancy legislation has been liberalised in favour of tenants, the condition of good husbandry should be statutorily imposed on the tenants. As stated before, such a condition was incorporated in the draft Bombay Tenancy and Agricultural Lands Bill, 1948, but it appears that the said provision was dropped during the second reading of the Bill in the State Legislature. The reasons for its deletion are not known. But a stage is reached in the tenancy legislation when imposition of such a condition becomes an imperative necessity.

5. *Ceilings on individual holdings.*

The problem of leasing raises an important question of the landlord's right of resumption of lands for personal cultivation. It, in turn, stems from the general question about the maximum holding which an individual can be allowed to hold. The laws relating to the abolition of jagirs and zamindaris have already reduced to a considerable extent the degree of disparity which existed in the distribution of land. The Congress Agrarian Reforms Committee (1950) had recommended that “very large holdings should not continue. A ceiling to land holdings should be fixed and according to our considered views, it should not be higher than three times the size of the economic holding.” (p. 24). The Planning Commission has endorsed this view.* According to the Planning Commission, “If it were the sole policy to reduce the holdings of the larger owners with a view to providing for the landless or for increasing the farms of those who now have uneconomic fragments, the facts at present available suggest that these aims are not likely to be achieved in any substantial measure.”† The Commission has

* The Five Year Plan, p. 189.

† Ibid. p. 187.

therefore recommended that a ceiling should be placed on the area of land that an individual could hold in future. The Commission has divided the question into three sections:

- (1) ceiling for purpose of resumption of land,
- (2) ceiling for future acquisition, and
- (3) ceiling for existing holdings.

For sections (1) and (2) above, the Commission has more or less accepted ceilings as given in the Bombay Tenancy Act and the U.P. Zamindari Abolition Act. So far, maximum limits of individual holdings have been fixed in the following States:—

Bombay	50 acres.	
Madhya Bharat	50 acres.	
U.P.	30 acres.	
Punjab	(a) 50 standard acres for displaced persons. (b) 30 standard acres ordinarily.	
Hyderabad	4½ times the family holding which would bring an annual net income of not more than Rs. 3600/-.	
Saurashtra	A class Girasdars.	3 economic holdings.
	B " "	1½ "
	C " "	½ total area of the land held by each tenant.
	(An economic holding consists generally of 32 acres of land).	
West Bengal	33 acres.	
Bihar	30 acres proposed.	
Himachal Pradesh	10 acres or area bearing land revenue of Rs. 125.	
Ajmer-Merwara	120 acres proposed.	

The question of fixing the ceilings in Saurashtra is under the active consideration of Government. It is proposed to fix the same after scientific inquiry and consultation with the public. The necessary Bill containing this provision has been adopted recently by the State Legislature.

The ceiling of individual holding is bound to vary "according to the agronomic conditions, agricultural technique and the standard of living to be satisfied". This relates to the maximum holding an individual may be allowed to hold.

As regards the limit for resumption of land for personal cultivation, it is noticed that the problem bristles with practical difficulties, as resumption may involve eviction of tenants (deprivation of some lands under their cultivation) or payment of compensation to the evicted tenants. The Commission has recommended that the limit for resumption of lands may be decided with reference to any of the five possible criteria, viz., (1) land revenue, (2) value of the gross produce of land, (3) value of net produce of land, (4) sale value of land, and (5) lease value of land. It has also suggested that "In the last analysis, any particular method of determining a limit implies an average level of income or in real terms, an average quantity of agricultural produce which it is proposed should become some kind of maximum for an individual agricultural family. This criterion is actually followed in the Bill to amend the Hyderabad Tenancy and Agricultural Lands Act, which is being considered by the State Legislature at present.* We know what controversy the dissident Congress group has raised against this provision. It is urged by that group that the family holding should be fixed on the basis of land revenue and not on the annual net income of Rs. 800 as provided in the Bill. The controversy is still not settled but there seems to be some truth and force in the contention that the family holding should be fixed with reference to land revenue and not net annual income. The advantages in adoption of this criterion are that there is a tangible yardstick to fix the family holding. The land revenue is fixed on the productivity of soil, soil classification, sale statistics, situational value, etc. It is urged that the land revenue has been fixed in different districts in the States at different times and that those settlements of land revenue may not be a true guide. But in comparison to the difficulties involved in computing the net annual income from a holding, the yardstick of land revenue is more tangible and less susceptible to mischief. Now that the State Governments have taken up the question of revising their time-expired settlements, it would be safe to suggest the adoption of land revenue as the basis for fixing the family holding.

* The Bill has been passed by the State Legislature after great controversy.

With regard to lands under personal cultivation, the Planning Commission has refrained from laying down any principle because of the difficulties in payment of compensation for the surplus lands. It has however suggested that the lands which are efficiently managed should not be disturbed. Prof. Dantwala urges that in such matters, "the test should have been not whether the large self-cultivated holdings are efficiently managed but rather whether as a result of the ceiling regulation and redistribution, the aggregate efficiency is likely to be jeopardised. . . . A break-up of, say, a 500 acre efficiently managed farm into 4 or 5 farms will not necessarily lead to an aggregate fall in efficiency. I would therefore suggest that this recommendation should be amended in a manner that would permit the continuation of a large owner cultivated farm without the application of the ceiling regulation only, if it can be demonstrably proved that the application of the regulation will seriously diminish efficiency."* The Planning Commission's recommendation is negative, whereas that of Prof. Dantwala is positive. But he has not suggested the area of the ceiling to be fixed in such cases presumably because the problem does not admit of any uniform clear-cut solution.

As regards small and middle owners, the Commission recommends that "the general aim of policy should be to encourage and assist these owners to develop their production and to persuade them to form into co-operative farming societies." This recommendation endorses the Congress Agrarian Reforms Committee's recommendation that the palpably uneconomic farms should be compulsorily pooled into small sized co-operatives. It is based on the realization that inefficient and wasteful production in small sized farms should not be allowed in its larger sector of agricultural economy. Apart from the co-operatives, as a first step, the Commission has recommended consolidation of the holdings in all the States. In the absence of the adequate statistical and other information, it (the Commission) has not recommended any minimum limit of a holding. But we have already seen that the laws relating to the prevention of fragmentation and consolidation of holdings have prohibited creation of fragments below a specified acreage.

* Prof. Dantwala M. L. : Basic Approach to Land Reforms in the Indian Journal of Agricultural Economics, March 1953.

The resumption of lands by landlords for personal cultivation also raises certain other issues, viz.,

- (1) whether it is necessary to fix a time-limit within which such a right should be exercised,
- (2) whether certain area of land should be left with a tenant or not;
- (3) whether a distinction should be made between large-owners and small and middle owners or resident landlords and absentee landlords;
- (4) whether the evicted tenants should be paid compensation on the basis of some standard such as period of tenancy, the character of crops—cash or non-cash—raised.

As regards (1) and (2), Bombay and Hyderabad have already made provisions in their tenancy laws. Bombay has fixed 50 acres of dry crop land or $12\frac{1}{2}$ acres of paddy or bagayat land or lands of both kinds, subject to certain conditions. One of the important conditions is that a landlord could exercise this right only if land is the main source of his maintenance. In Hyderabad, a landlord can resume land upto 3 family holdings within a period of 5 years from the coming into force of the amendment.

As regards (3) above, a distinction will have to be made between large owners on one side and the middle and small owners on the other. The question of the large owners has already been discussed above. As regards the middle and small owners, it does not seem expedient to lay down any hard and fast rules. But whenever a land owner of these types wants to resume land for personal cultivation, it should be ascertained whether it is the main source of his maintenance or it is a second string to his bow. Normally incomes from such lands supplement the incomes from other sources. In this category fall pensioners and servants working in big industrial and other establishments. After retirement, if such a person wants to settle down on his small ancestral land, it would be inexpedient to prevent him from doing so on the ground that the tenant will have to vacate the land. This state of affairs will continue so long as the absentee landlordism is not abolished

from India. In this respect, the Planning Commission has laid down a very sound principle as follows: "There is little to be gained by treating the leasing of land by small and middle owners as examples of absenteeism to be dealt with along the same lines as lands belonging to substantial owners which are cultivated by tenants-at-will"*.

Lastly, the payment of compensation to evicted tenants is a question of fact and should be decided accordingly. The State Governments cannot ignore the statutory provisions made in some of their tenancy laws.

As recommended by the Commission, our waggons should be hitched to the twin stars—the co-operative farming for the uneconomic farms and the cooperative village management. The former has already been tried in several States like Bombay, Bengal, Madhya Pradesh and U.P. The experiments have proved successful where the essentials (mutual assistance, management, distribution of income in proportion to the use made of the association, inducements, etc.) of the co-operative farming are easily available. As regards the latter (cooperative village management), it is not known whether that experiment has been given a trial anywhere in India. "Nevertheless it is important to work towards a concept of co-operative village management so that the villages may become a vital, progressive and largely self-governing base of the structure of national planning and the existing social and economic disparities resulting from property, caste and status may be obliterated." All the State Governments should undertake necessary legislation for achieving these ideals laid down by the Planning Commission.

6. *Role of the Planning Commission.*

In the above background of the land reform legislation in India, the Planning Commission has a distinct and decisive role to play in the matter of direction and control of the laws and their implementation. Mr. Kenneth H. Parsons has observed in his report to the Government of India that "There is a great need for a clear lead from the Central Government to the States in controversial matters which relate to land reforms." It is

* The Five Year Plan, p. 192.

understood that a Central Land Reforms Organisation has been formed for the purpose. It is reported* that during the conference of the State Ministers for Agriculture held at Delhi in September 1953, the State Governments were asked to consult the Government of India and the Central Land Reforms Organization at the time of drafting the Bills, instead of sending them to the Government of India for obtaining the President's assent after they were passed by the State Legislatures. They were further advised to report the progress, operation and effects of the land reforms on the agrarian economy. Although these directives have come none too soon, they are obviously not enough. It would be appropriate for the Ministry of Home Affairs to lay down broad principles for framing future land laws. Besides, it should issue clear instructions for quick implementation of the laws enacted.† The processes for (a) making alternative administrative arrangements and (b) assessment and award of compensation should be expedited. For this purpose, monthly or quarterly progress reports from the State Governments do not seem enough. It is, therefore, suggested that there should be one flying squad of the Central Land Reforms Organization which would visit the States which are found lagging behind in implementation, make an on-the-spot study of their difficulties and suggest solutions so that the laws may be implemented without avoidable delay.

The time-lag in obtaining the President's assent gives scope to the Zamindars, Inamidars and others to thwart the beneficent provisions of the laws. Delay in payment of compensation leaves behind a trail of discontent and bitterness. Both these difficulties can be tided over, if prompt action at appropriate levels is taken by all concerned.

Besides, the Central Land Reforms Organization should make a comprehensive inquiry into the operation of the land reform legislation and their effects on the different sectors of the Society. That this is an urgent necessity cannot be denied by any. So far, the Government of India does not seem to have undertaken such an inquiry. Unless such a periodical assess-

* The Times of India of 30-9-1953.

† In the Ambassador's Report IV, Chester Bowles, has found the progress of the land reforms "much too slow to meet the rising discontent of the villagers".—The Times of India, dated 31-1-1954.

ment of the working and results of the laws is made, Government cannot have an overall picture of the effects of the laws throughout India. Except in Hyderabad, no such assessment has been made in other States.* This organization should urgently take up this work and should not remain content with the reports from the State Governments alone, particularly because the ryots should realize the benefits of the legislation as quickly as possible.

It is true that these laws have removed intermediaries, big and small, from the administration of the villages, have resulted in the break-up of their substantial land holdings and have thus considerably reduced their incomes. It should not be forgotten that these intermediaries have banked upon the incomes received from the Zamindaris, Jagirs, etc., generally for more than a century, and have developed certain standards of life. After abolition of their Zamindaris and Jagirs, their steady incomes have either been stopped or substantially curtailed with the result that they have increased the horde of the unemployed or the underemployed. Government has made alternative administrative arrangements to fill in the administrative vacuum created in the villages by the abolition of the intermediaries; but it is not known whether any alternative arrangements are made for the suitable employment of these 'displaced' or 'dispossessed' intermediaries on abolition of their stable incomes. Suitable measures may be adopted for the employment of such persons, otherwise their unemployment may lead to undesirable results.

7. *Conclusion.*

It is a well-known fact that the British created or recognised certain vested interests in India as a bulwark against any movement against the State. It is a matter of history that those vested interests (the zamindars and inamdars) supported the British regime against any popular movements. After the Britishers left India in August 1947, all the vested interests lost their *raison d'être*. In the new political set-up, their abolition, therefore, became possible by appropriate legislation by

* Recently, the Planning Commission has entrusted the land survey (assessment of tenancy legislation) in Bombay to the Indian Society of Agri. Economics, the Baroda University and the Gokhale School of Politics and Economics, Poona.

the present Government. It is a significant circumstance that all the important land reform laws have been enacted after achieving Independence. What seemed well-nigh impossible of achievement before 1947 became quite easy thereafter. This political aspect of the land reform legislation is of fundamental importance and should not be lost sight of in the evaluation of the reforms.

The land reform legislation has been beneficial both to the State and the Society. The unnecessary intermediaries like the Zamindars, Jagirdars, Talukdars, Inamdars, etc., have been removed from the village administration. The variety of land tenures like Zamindaris, Jagirs, Khoti, Talukdari, ankadia, matadari, etc., has been replaced by one common land system called the ryotwari tenure in which a cultivator is made directly responsible to Government for payment of land revenue. In consequence of the break-up of the substantial holdings of the Zamindars and Jagirdars, it has become possible to level up the status of the tiller of the soil in the agricultural ladder. Exactions and evictions of tenants by landlords are reduced to a minimum. In the case of unlawful evictions, tenants have been restored to their former position and the landlords are compensated for the improvements made in the period intervening the eviction and restoration. The tenancy legislation is considerably liberalised in favour of tenants, who are conferred "3 Fs" and the dice is heavily loaded against the class of landlords particularly absentee (non-cultivating) landlords. The net result is that land has practically ceased to be a form of commercial investment by non-agriculturists. But it is yet to be ascertained whether the existing level of agricultural production has been stepped up and whether the relations between landlords and tenants have become more harmonious, resulting in the solidarity and development of the village economy.

But it is certain that, administratively, the work from the district to the village level is reduced, simplified and streamlined. Besides, the land reform laws have proved to be an aid to taxation. The laws relating to tenancy and consolidation of holdings have increased the land revenue potential of the

States But the laws relating to the abolition of the Zamindaris, the jagirs and the special land tenures have directly increased the land revenue receipts substantially. It is true that the States have to incur expenditure on account of introduction of survey, settlement, Record of Rights and compensation to the tenorial holders. This expenditure is non-recurring and is to be spread over years, but the increase in the land revenue receipts is immediate.

Further, the laws have removed many snags from the settlement of land revenue. They have paved the way for reform of land taxation. There is no doubt that the work of the Taxation Enquiry Commission appointed by the Government of India under the chairmanship of Dr. John Matthai will be much facilitated by these measures.

After all is said and done in regard to the land reforms, one may legitimately ask whether the twin objectives of social justice and efficient agricultural production have been achieved or are near achievement and whether the laws have increased human happiness which is the aim of our Welfare State. The reader may find much material in this book, but for obvious reasons, he may look up to the Central Land Reforms Organization for a fitting reply. It is gratifying to note that the said organization has begun to function now. It is not too much to hope that before long, it will make an over-all assessment of the effects of the land reforms for the purpose.

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